



MINUTES

Planning Services Committee

Wednesday, 16 June 2010, 6.00 pm

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PLANNING SERVICES COMMITTEE

Minutes of the Planning Services Committee
held in the Council Chambers, Fremantle City Council
on 16 June 2010 at 6.00 pm.

DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 6.00 pm.

NYOONGAR ACKNOWLEDGEMENT STATEMENT

"We acknowledge this land that we meet on today is part of the traditional lands of the Nyoongar people and that we respect their spiritual relationship with their country. We also acknowledge the Nyoongar people as the custodians of the greater Fremantle/Walyalup area and that their cultural and heritage beliefs are still important to the living Nyoongar people today."

IN ATTENDANCE

Cr Robert Fittock	North Ward
Cr Tim Grey-Smith	City Ward
Cr Andrew Sullivan	South Ward
Cr John Dowson	East Ward
Cr Bill Massie	Hilton Ward
Cr Josh Wilson	Beaconsfield Ward

Mr Philip St John	Director Planning and Development Services
Ms Natalie Martin Goode	Manager Development Services
Mr Paul Garbett	Manager Planning Projects and Policy
Mr Steve Sullivan	Coordinator Planning Mediation
Miss Kayla Goodchild	Minute Secretary

There were approximately 35 members of the public and 1 member/s of the press in attendance.

APOLOGIES

Brad Pettitt	Mayor
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LEAVE OF ABSENCE

Nil

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Mark Eagleton requests that the Council issue a stop work order on works at 119 Stirling Highway North Fremantle and put pressure of the owners to submit a retrospective DA to the council. Mr Eagleton stated that the plans for this development have been approved but he believes what is taking place on the site is noncompliant with the approved plans.

DEPUTATIONS / PRESENTATIONS

The following member/s of the public spoke in favour of item PSC1006-107:

Kerry McAuliffe

The following member/s of the public spoke in favour of item PSC1006-108:

Mac Walton

Jarrold Midgley

Don Saunders

Lesley Saunders

Pat Overall

The following member/s of the public spoke against item PSC1006-108:

John Kirkness

The following member/s of the public spoke in favour of item PSC1006-109:

Joan Hendry

The following member/s of the public spoke against item PSC1006-109:

Michael Mann

Jo Lopez

The following member/s of the public spoke against item PSC1006-110:

Terry Gabriele

Terry Vaughan

The following member/s of the public spoke against item PSC1006-111:

Matt Pickering

The following member/s of the public spoke against item PSC1006-112:

Marco Serrangeli

The following member/s of the public spoke in favour of item PSC1006-120:

Dr J Tierney

Mary Connor on behalf of the Fremantle Society

DISCLOSURES OF INTEREST BY MEMBERS

Cr A Sullivan declared an impartiality interest in item number PSC1006-114 on the basis that his sister lives across the road from the subject site.

LATE ITEMS NOTED

Nil

CONFIRMATION OF MINUTES

MOVED: Cr A Sullivan

That the Minutes of the Planning Services Committee dated 2 June 2010 as listed in the Council Agenda dated 23 June 2010 be confirmed as a true and accurate record.

CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

TABLED DOCUMENTS

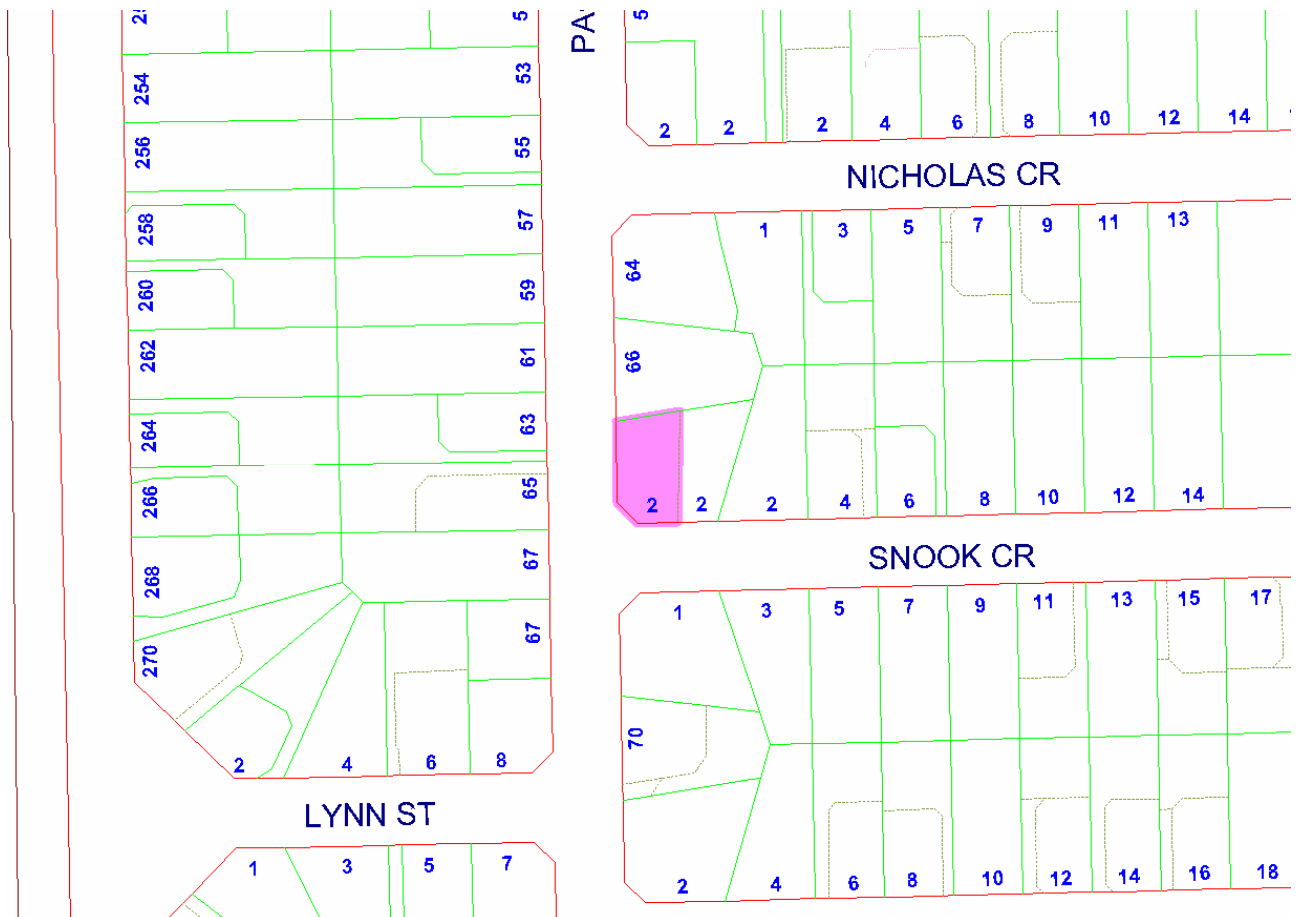
Nil

DEFERRED ITEMS (COMMITTEE DELEGATION)

The following items are subject to clause 1.1 and 2.1 of the City of Fremantle Delegated Authority Register

PSC1006-107 SNOOK CRESCENT NO. 2A (STRATA LOT 1 ON LOT 1268) HILTON - SINGLE STOREY SINGLE HOUSE - (BC DA0175/10)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 16 June 2010
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC1006-100
Attachment 1: PSC1006-100 PSC Minutes 2 June 2010
Attachment 2: Development Plans
Date Received: 7 April 2010
Owner Name: K & A McAuliffe
Submitted by: K & A McAuliffe
Scheme: Residential R20
Heritage Listing: Hilton Heritage Area
Existing Landuse: Vacant Land
Use Class: Single House
Use Permissibility: P



EXECUTIVE SUMMARY

The application is for a single storey Single House at No. 2A (Strata Lot 1 on Lot 1268) Snook Crescent, Hilton.

The application was presented before the Planning Services Committee (PSC) on 2 June 2010 as the development proposes variations from the design requirements of the City of Fremantle local planning policy, *D.G.H3 Hilton Local Area Planning Policy*. The PSC resolved to defer determination of the application *'to the next appropriate Planning Services Committee meeting so the City administration can prepare a draft recommendation for approval.'*

This report provides for Council's consideration, a recommendation for Planning Approval, subject to appropriate conditions.

BACKGROUND

Planning approval is sought for a single storey Single House at No. 2A Snook Crescent, Hilton. Please refer to Attachment 1 for details relating to the proposed development and assessment.

The application was presented before the PSC on 2 June 2010 with an officer's recommendation for refusal, based upon the proposal being *'inconsistent with the design requirements of the City of Fremantle Local Planning Policy D.G.H3 Hilton Local Area Planning Policy regarding the roof pitch.'* The officer's recommendation was lost when put to the vote. The PSC then resolved:

'That the application be deferred to the next Planning Services Committee meeting so the City administration can prepare a draft recommendation of approval.'

During the PSC meeting on 2 June 2010, additional variations to the requirements of the *Hilton Local Area Planning Policy* were identified that were not mentioned in the officer's report. These variations are listed below:

Requirement	Proposal	Variation
Minimum external wall height of 3.0m from ground level to top of wall plate <u>or</u> floor level to eaves 2.4m	External wall height of 2.7m. Floor level to eaves 2.15m	0.3m 0.25m
Minimum eave width of 450mm	Eaves 450mm all around the dwelling except on the eastern and southern elevation of the garage	Eaves not provided all around dwelling
Floor level of new dwelling to be raised a minimum of 500mm	Floor level raised an average of 150mm throughout dwelling	350mm

These additional variations were discussed by Elected Members and Officers during the previous PSC meeting and will therefore not be considered in this report.

PLANNING COMMENT

An officer’s recommendation for approval has been prepared in accordance with the resolution of the PSC at its meeting on the 2 June 2010 regarding this application.

OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Single Storey Single House at No. 2A (Strata Lot 1 on Lot 1268) Snook Crescent, Hilton, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans dated 7 April 2010.
2. All storm water discharge shall be contained and disposed of on-site.
3. Prior to occupation of the development, vehicle access shall be constructed in either paving block, concrete or bitumen and thereafter maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.
4. Prior to occupation of the development, any redundant crossovers and kerbs shall be removed and the verge reinstated to the satisfaction of the Chief Executive Officer, City of Fremantle and at the expense of the applicant.

Cr J Dowson MOVED an amendment to the Officer's Recommendation to include the following condition:

5. That the floor level of the development be 500mm above ground level.

LOST 2/4

For	Against
Cr John Dowson Cr Andrew Sullivan	Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Cr A Sullivan

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Single Storey Single House at No. 2A (Strata Lot 1 on Lot 1268) Snook Crescent, Hilton, subject to the following condition(s):

- 1.This approval relates only to the development as indicated on the approved plans dated 7 April 2010.**
- 2.All storm water discharge shall be contained and disposed of on-site.**
- 3.Prior to occupation of the development, vehicle access shall be constructed in either paving block, concrete or bitumen and thereafter maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 4.Prior to occupation of the development, any redundant crossovers and kerbs shall be removed and the verge reinstated to the satisfaction of the Chief Executive Officer, City of Fremantle and at the expense of the applicant.**

CARRIED: 5/1

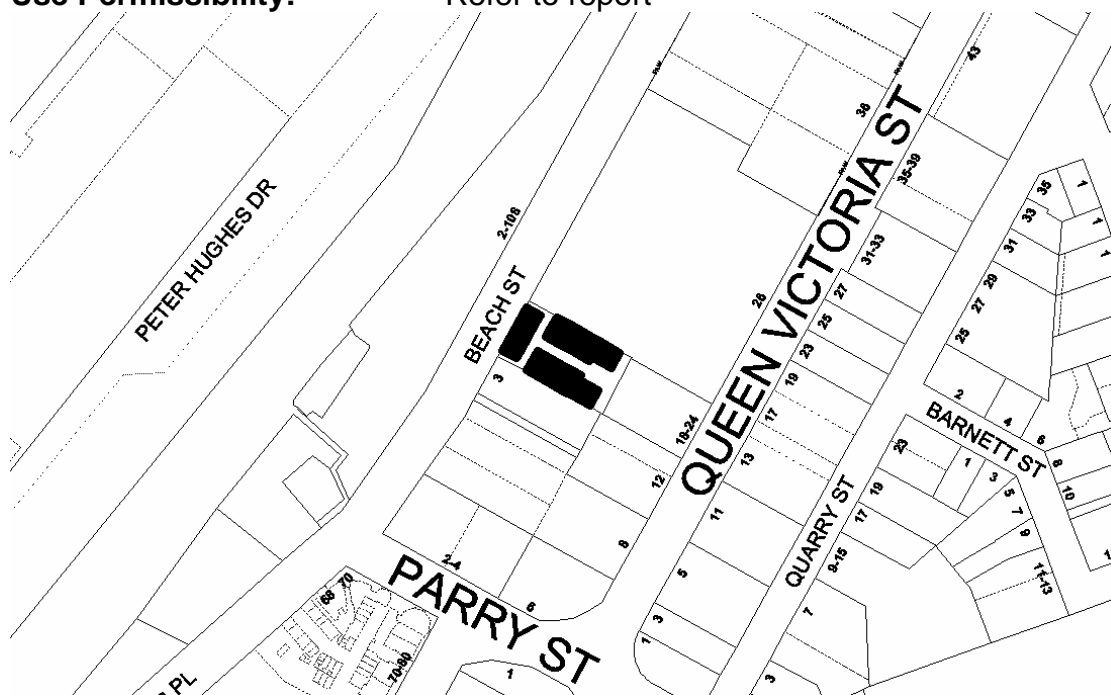
For	Against
Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	Cr John Dowson

REPORTS BY OFFICERS (COMMITTEE DELEGATION)

The following items are subject to clause 1.1 and 2.1 of the City of Fremantle Delegated Authority Register

PSC1006-108 BEACH STREET NO 5 (LOT 123) FREMANTLE – SAT MATTER – RETROSPECTIVE APPROVAL FOR UNAUTHORISED WORKS AND APPROVAL FOR PROPOSED WORKS AND CHANGE OF USE TO TOURIST ACCOMMODATION, OFFICES, RESTAURANT, SMALL BAR, THEATRE, PRIVATE RECREATION, CARETAKERS DWELLING

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 16 June 2010
Responsible Officer: Manager Development Services
Actioning Officer: Coordinator Planning Mediation
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC0809-264
Attachment 1: Applicant's supporting letter dated 1 February 2010 and plans of proposed development
Date Received: 18 December 2009
Owner Name: Owners of Strata Plan 43863
Submitted by: John Kirkness
MRS Scheme: City Centre
Zoning: Mixed Use
Heritage Listing: Not adopted in MHI or on Heritage List under LPS4
Existing Landuse: Partially modified building
Use Class: Tourist Accommodation, Offices, Restaurant, Small bar, Theatre/Cinema, Private Recreation, Caretakers Dwelling
Use Permissibility: Refer to report



EXECUTIVE SUMMARY

The application is submitted for determination by the Planning Services Committee (PSC) as the application involves a development that is subject to the State Administrative Tribunal (SAT) process and involves the exercise of discretion in relation to certain provisions of Local Planning Scheme No 4 (LPS4).

An application for review was lodged with SAT on 15 March 2010 following the deemed refusal of the application before Council. The matter was considered by SAT and it was ordered that, pursuant to section 31 (1) of the *State Administrative Tribunal Act 2004*, Council be requested to reconsider its previous decision (a deemed refusal) on or before the 23 June 2010.

The proposed development involves retrospective approval for certain works that have been undertaken as well as approval for proposed works and land uses. The development relies on the use of a 2.5m wide right of carriageway over No. 18-24 Queen Victoria Street to gain access to the car parking area at the rear of 5 Beach Street. Further, it is proposed to provide 9 car parking spaces and 71 scooter spaces to address the car parking requirements of LPS4. Further, the proposed finished ground and habitable floor levels of the ground floor development will be located close to the water table level, which then raises the risk of flooding of this area. Having regard to the above, it is considered that the proposed development will have an adverse impact on the adjoining properties and the development itself.

Changes to the existing and proposed development to address these concerns will result in unknown outcomes. Consequently, it is recommended that the application be refused.

BACKGROUND

An application for Planning Approval was received by the City on the 18 December 2009. The applicant was seeking Planning Approval to:

- obtain retrospective planning approval for unauthorised works;
- approval to undertake new works; and
- use the site for different land uses to those previously approved as part of a lapsed Planning Approval.

State Administrative Tribunal (SAT) Review

On 1 April 2010, the SAT considered a request to review Council's decision not to have made a determination on a planning application for the development site within 60 days of receipt of the planning application (a deemed refusal), which was received late December 2009. The City had not progressed the application as the application form had not been signed by all the property owners of the development, which was required by Clause 9.1.1 of LPS 4. This raised the question from the City's perspective whether or not this was a competent application for Planning Approval.

At the directions hearing, the SAT ruled that the City should be progressing the application, even though all the owners had not signed the application form. It was considered by SAT that this was a procedural matter, and if the form had not been signed by all owners at the time a decision was needed to be made, the application could not be dealt with.

Consequently, SAT determined that the 60 days had lapsed and the applicant was entitled to seek a review of the deemed refusal and ruled that the decision making process was now subject to the SAT Review process.

Under Section 31 of the SAT Act the Planning Services Committee or Council has been invited to reconsider the decision (ie deemed refusal) on or before 23 June 2010.

Previous Planning Approvals and Building Licence

The site consists of an existing non-residential shell that has been the subject of a previous Planning Approval. The Planning Approval, being DA02/03 issued 2003 and under Town Planning Scheme No. 3 (TPS3), was for the restoration, conversion and extension of the existing warehouse into 10 short term accommodation units, office/studio accommodation, one caretaker residence and a swimming pool. A total of 16 car parking spaces were proposed, with access to 12 car parking spaces from Beach Street at ground level. Access to the remaining four car parking spaces (located at the rear of the site) was proposed to be from Queen Victoria Street via the right of carriageway over 18-24 Queen Victoria Street

Development commenced on the site, however what has been constructed on site was not consistent with the 2003 planning approval, or the subsequent building licence.

The 2003 planning approval included a requirement that the development be commenced within two years and completed within three years of the date of approval. The date for completion was extended in November 2006 to June 2007. The development was not completed by June 2007, and the planning approval subsequently lapsed.

At the Ordinary Council Meeting of 22 October 2008, Council considered two planning applications for the construction of two units on lots 9 and 10 of the site for the purpose of tourist accommodation. Both applications were refused on grounds of the development having an unacceptable impact on privacy of neighbouring properties (overlooking from balconies), insufficient on site car parking, and an increased intensity of use of access from Queen Victoria Street having an adverse impact on amenity of neighbours.

Ownership of Site

A Survey Strata to reflect the above 2003 planning approval was conditionally approved by the WAPC on 8 August 2003, and the deposited plan was endorsed on 5 January 2004. Since then, 2 of the 11 strata title lots have been sold and there is now four parties that own these lots. The majority of the lots are owned by a Company, with three of the remaining lots being owned by private individuals.

Unauthorised Works

From the time that the 2003 Planning Approval and Building Licence expired, the company has continued on with construction works that were:

- occurring without the relevant Planning Approval or Building Licence; and
- different to the expired Planning Approval and Building Licence.

The company that owns a majority of the strata title lots has been prosecuted for carrying out these building works contrary to LPS4, the Local Government Act and in contravention of a Stop Work Notice issued by Council. A fine of \$230,750 was imposed for the contravention and the company is appealing the severity of this fine imposed by the Court. This is a separate issue to the current planning application before Council.

Continuation of Works

Works have continued on the site, however, this is a separate issue that is currently under investigation by the City and is a separate issue to the current planning application before Council.

Site Information

The subject site is located on the eastern side of Beach Street, in the city block bounded by James Street to the north and Parry Street to the south. The street block is zoned Mixed Use under LPS4.

The existing building is currently divided into three modules. The first module faces Beach Street, the second and third modules, are located partially along the northern and southern boundaries of the site. The location of these modules effectively creates a central courtyard. A series of timber trusses and elevated pathways link the three modules together.

There was a slope in the site from Beach Street up to the rear of the site, a difference of approximately 4.2m based on the submitted plans. The rear portion of the site has been excavated with sheet piling having been erected that currently prevents the site at No. 18-24 Queen Victoria Street from subsiding into the development site.

Located to the north of the site is 26 Queen Victoria Street, which is a housing development that is located between Beach Street and Queen Victoria Street.

To the rear of the development site, is the common driveway that provides access to the car parking spaces that are located at the rear of 18-24 Queen Victoria Street. To gain access to this common driveway at the rear of No. 18-24 Queen Victoria Street from Queen Victoria Street, a 2.88m wide driveway exists along the southern side boundary of No. 18-24 Queen Victoria Street.

To the south of 18-24 Queen Victoria Street and south-east of the development site is the heritage listed building occupied by the Stellar Maris Seafarers Centre and St Patrick's Community Support Centre (to be referred to as the St Patrick's centre) at No 12 -16 Queen Victoria Street. This building is located approximately 1.12m from the common boundary with 18-24 Queen Victoria Street.

Both the owners/occupiers of No 5 Beach Street and 12 - 16 Queen Victoria Street (including visitors, tradesmen, etc) have legal access to a right of carriage way that exists on No. 18-24 Queen Victoria Street. This access is restricted to a 2.5m right of carriage way that is located along the southern boundary of 18-24 Queen Victoria Street, from Queen Victoria Street to the rear of No. 5 Beach Street.

At present, a 4.0m driveway (which includes the 2.5m wide right of carriageway) provides vehicular access to the car parking spaces located to the side of the St Patrick's building and the residents of 18-24 Queen Victoria Street. This is discussed in greater detail in the report.

The current approval for the St Patrick's Community Support Centre required a gate to be located across the driveway serving Nos. 12-16 and 18-24 Queen Victoria Street. The gate is required so as to provide security to the rear of Nos 12-16 and 18-24 Queen Victoria Street.

Proposed Drainage Works – Queen Victoria Street and Beach Street

To address concerns of stormwater drainage capacity in certain streets, the City will be undertaking a detailed drainage design study for an upgraded drainage system in the areas of Beach Street and Queen Victoria Street. It will be a number of years before the drainage works are completed, which will reduce the risk of flooding in the street and from the street into private properties.

Historical Information

The site is not listed on the heritage list under LPS4. The site is in the City's Municipal Heritage Inventory, however, it has not been adopted. It was originally considered to be a Category 2 building, however, further investigation was required.

DETAILS

The applicant is seeking retrospective approval for works undertaken and approval for proposed works and land uses that include the following:

- Tourist Accommodation;
- Offices;
- Restaurant;
- Small Bar;
- Theatre;
- Private Recreation; and
- Caretakers Dwelling

It is proposed that the public would be able to access the Restaurant, Small Bar and Theatre facilities.

It is proposed to keep the existing building shell (three modules) and add a new module to the rear (eastern) section of the site. The breakdown of uses within the modules is set out below:

Module 1 west (faces Beach Street):

Combination of offices, 5 tourist accommodation suites and caretakers dwelling;

Module 2 north

Combination of Restaurant, laundry, bin store, gym/sauna and 12 tourist accommodation suites;

Module 3 south :

Combination of Small bar, Theatre store, bin store and 12 tourist accommodation suites;

Module 4 east

Combination of theatre and associated rooms, pool/spa, ancillary uses, parking for 9 vehicles, with access form Queen Victoria Street via the right of carriageway over 18-24 Queen Victoria Street, parking provision for 71 scooters.

Except for the on-site service bays that abut the existing access points to Beach Street, all vehicular access from Queen Victoria Street to the rear car parking area will be via a 2.5m right of carriage way across No 18-24 Queen Victoria Street. This right of access abuts the southern boundary of the site.

Instead of providing car parking facilities for the proposed development, the owner is relying on the provision of 71 electric scooters for use by the occupants and their guests. The number of scooters is proposed to be provided at a ratio of 2.5 per tourist accommodation suite. It has been indicated in correspondence that these scooters would not be available for use by the general public.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4

The site is zoned Mixed Use under the provisions of LPS4.

CONSULTATION

The application was referred to the Fremantle Port Authority and the Public Transport Authority (PTA). If the application is to be approved, special conditions relating to the design of the development or the use of the site are required to address the issues raised by these two bodies.

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4, as the proposed development involved variations to the car parking standards. At the conclusion of the advertising period, being 29 April 2010, the City had received 13 submissions.

Support / No objection	Support / No objection with comments	Objection	Total
1	4	8	13

The following issues were raised against development:

- lack of car parking
- use of scooters as substitute for provision of car parking
- vehicular access is only provided from the development site to Queen Victoria Street via the right of carriage way over 18-24 Queen Victoria Street, rather than using Beach Street for access to the car parking area;
- security will be compromised to residents;
- impact of noise
- impact of pollution
- unauthorised works
- existing building structures across the boundary
- effect on security

Support for the project was provided on the basis that the development can be completed.

PLANNING COMMENT

The application, as stated above involves the SAT. Council has been invited to re-consider the deemed refusal and either:

- (a) *affirm the decision;*
- (b) *vary the decision; or*
- (c) *set aside the decision and substitute its new decision.*

In this instance, Council will be making a decision to either:

- approve the development without conditions;
- approve the development with conditions; or
- refuse the application.

The owner will still have access the SAT process if they are not satisfied in relation to any aspect of Council's decision.

Planning Issues

The current application before Council is an intensified version of the 2003 application previously approved by Council, which has been partly constructed, although not in accordance with the expired plans. The original land uses were restricted to 8 short stay units, with 8 office/studios and a caretakers dwelling. The application before Council now includes additional land uses that by their nature are more intensive land uses in terms of there hours/days of operation and car parking demand for those uses.

Proposed Land Uses

The following table identifies the proposed land uses (and their land use permissibility) that the City has identified as needing approval as part of the current planning application:

Land Use Classification	Land Use permissibility under LPS4
Tourist Accommodation	A
Offices	P
Restaurant	A
Small Bar	A
Theatre	A
Private Recreation	P
Caretakers Dwelling	Unlisted

LPS4 defines the land categories as follows:

Land Use Symbol	Meaning
P	means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme
D	means that the use is not permitted unless the Council has exercised its discretion by granting planning approval.
A	means that the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice (advertising) in accordance with <i>clause 9.4</i> .
X	Not Permitted

The Caretakers Dwelling is not a land use listed in LPS4. However, it is considered that such a use would be consistent with the type of use that would be associated with a development of this type. As such, and having regard to Clause 4.4.2 of LPS4, it is considered that the Caretakers Dwelling land use is a type of land use that is consistent with the objectives of the Mixed Use zone and therefore, should be treated as a “P” or permitted land use.

Individually, the land uses are considered to be appropriate and consistent with the objectives for the zone, having regard to the location of the development site and surrounding land uses.

Car Parking

Based on the car parking provisions contained within Table 3 of LPS4, the car parking demand generated for the various uses are set out below:

Car Parking Requirement based on Table 3 - Vehicle Parking of LPS4					
Land Use Activity	Proposed Unit	LPS Requirements		Statutory Requirements	
		Car Parking Bays	Delivery Bays	Car Parking Bays	Delivery Bays
Restaurant	40m2	1 per 5 seats or 1 per 5m2 dining area, whichever is greater	1 per service/storage area	8	1
Tavern	48m2	1 per 5 m2 of lounge	1 per service/storage area	10	0
Private Recreation	20 persons	1 per 5 users	1 per service/storage area	4	1
Theatre	80 seats	1 per 5 seats	1 per 500 m2 GFA	16	1
Commercial Tenancy	95m2	minimum of 3 spaces	1 per 500m2	3	1
Caretaker Residence		1 per caretaker	N/A	1	0
Tourist Accommodation	29 units	1 per guest bedroom	N/A	29	0
Total				71	4

From the table above, individually, the proposed development requires the provision of 71 car parking spaces and 4 delivery bays. The applicant is proposing to provide 9 car parking spaces, 2 delivery bays and 71 scooter parking spaces and 71 scooters (2.5 scooters per Tourist Accommodation suite. LPS4 does not directly consider the provision of scooter/motorcycle parking in lieu of providing car bays. It is therefore considered that for the purpose of this assessment, that the development proposed a shortfall in on-site car parking of 62 car bays (87% variation) and 2 delivery bays (50% variation).

It is also noted that, except for the delivery bays, access to the 9 car parking bays and 71 scooter parking spaces is from Queen Victoria Street via a right of carriageway across No. 18-24 Queen Victoria Street. This is discussed in further detail in the next section.

The applicant is proposing, that due to the nature of the use of the site, Tourist Accommodation, any occupant will avail themselves of the scooters to be provided on the site during their stay. This does not account for those persons that will arrive by a motor car or use their vehicle during their stay at the site; or cannot or will not use the scooters for access.

Apart from the Tourist Accommodation suites, certain land uses on the site are to be available for use by the public. These uses include the restaurant, small bar or theatre. There are only 9 car parking spaces provided on-site to be used in conjunction with the operation of the site, whether it is by the occupants or staff to the site.

Clause 5.7.3 of LPS4 provides Council with the discretion to waive or vary the car parking standards contained within Table 3. The provisions of LPS4 do not address:

- the use of scooters to satisfy car parking demand; nor
- any ratio that would be an acceptable substitute for the provision of scooters in lieu of parking for cars.

Further, the assumption provided is that persons attending the premises will use the scooters rather than have a demand for parking. However, the proposed development has other uses which would be available to the public, including, restaurant, small bar and theatre. It is anticipated that these persons would need to park off-site.

In relation to clause 5.7.3 (i) of LPS4, the applicant states that there is a large amount of public parking (i.e. Council Car parks 12a and 12b) immediately adjacent to the subject premises and considerable numbers of street bays are also available. As such, Council's discretion should be used to waive any parking shortfall in relation to this application.

It is noted that Council Car Parks 12a and 12b are:

- leased to the City by the PTA on short term basis (month to month);
- both are paid parking areas; and
- restricted to the hours of 6:00am to 7:30pm, except for Friday night when the car parks are closed at 9:30pm.

In addition, whilst there is on-street car parking spaces available in Beach Street, these are also paid parking bays between the hours of 9:00am and 5:00pm and time restricted to 2 hours during those hours.

Located further south, there is PTA parking which has a section of this car park closed off and the remainder is set aside for train and bus passengers only.

Whilst there is a large number of car parking spaces in the Beach Street area, these off-street car parking spaces are under the control of another authority on a short term lease to the City. Street parking, which is under the control of the City, provided for parking, but is still subject to restrictions in terms of length of time and the need for payment to use these bays.

Further, the applicant states that the CAT bus directly serves this locality, however is it unreasonable to waive the parking shortfall solely based on sub-clause (ii) of Clause 5.7.3 as a high proportion of tourist/occupants might still use private vehicles.

Whilst there are shared uses within the development, facilities such as the restaurant, small bar and theatre will be opened to public. This suggests the developer will still need to supply car parking bays to the public. Therefore sub-clause (iii) of Clause 5.7.3 is not relevant to this application.

The option that has been proposed in lieu of the required car parking spaces is that the occupants will be provided with and use the scooters 24 hours a day, 7 days a week. These scooters will not, as stated in the applicant's submission, be hired out on a commercial basis. Of concern is whether this fleet of scooters will be maintained at an operational level as proposed or due to economic costs or lack of demand, the numbers are reduced or removed.

Having regard to the above, concern is expressed in relation to the adequacy of the parking having regard to the limited car parking spaces available on-site and the restricted parking available near the site. Further, whilst the option of spaces for scooters is acknowledged, it is considered that the number provided is unreasonable.

In summary, the proposal is not considered to provide for sufficient vehicle parking for the proposed uses and therefore, is not considered to comply with Clause 5.7.3 of LPS4.

Vehicular Access from Queen Victoria Street

When the 2003 planning approval for this site was granted, the approved plans showed that car parking for:

- 12 vehicles was to be provided at the lowest level with two vehicular access points from Beach Street, and
- 4 vehicles at the upper level (same level as No 18-24 Queen Victoria Street), with access to Queen Victoria Street across the right of carriageway.

The current development proposal seeks to remove all the car parking from the ground level, with the exception of 2 delivery bays, which are to be provided on-site and at the Beach Street entrance. It is now proposed to construct the car parking area for the development, at the rear of the site. Of concern is that all the vehicular access to the public street system for the new car parking/scooter parking area on the development site is proposed to be being gained from Queen Victoria Street, via a 2.5m wide right of carriageway over Nos 18-24 Queen Victoria Street, that is also used by two other developments that only have access to Queen Victoria Street.

The existing driveway to Queen Victoria Street abuts the St Patrick's centre and a residential dwelling at No.18 Queen Victoria Street. The distance between the Saint Patrick's centre and the dwelling located on No. 18 Queen Victoria Street is approximately 4.0m in width. Whilst the driveway width is approximately 4m, this driveway is located over two sites.

The nature of the proposed development will result in an extensive use of this access at all hours of the day/week in addition to existing levels, especially when compared to the previous development. Having regard to the:

1. use of the right of access way as the sole means of access from the car parking area to Queen Victoria Street and vice versa, for No. 5 Beach Street;
2. increased intensification of use of this right of carriageway at different hours and days;
3. narrow width of the access available to 5 Beach Street;
4. land uses that abut the driveway;

it is considered that this aspect of the design of the development is not in the interests of the orderly and proper planning for the area particularly with regard to Clause 10.2.1 (x) and (y) of LPS4. Further, it is considered that this aspect in itself is sufficient for refusal of the application.

Unauthorised excavation/stormwater runoff/water table level

The owner has lowered the ground level of the development site without Council approval. The southern end of the Beach Street footpath level (adjacent to the southern boundary of the site) is approximately 1.45m Australian Height Datum (AHD) based on the plans submitted as part of the application. The proposed habitable floor level of the ground levels is proposed to be 1.08m AHD and ground levels down to 0.91m AHD, which is approximately 0.35m and 0.55m below the southern end of the Beach Street footpath level. The Department of Water's Groundwater Atlas provides an approximation of the ground water table level related to AHD levels. Whilst ground water levels can fluctuate, the estimated level of 1.0m AHD for the ground water level in this area raises serious concerns in permitting habitable ground floor levels close to estimated ground water table levels. Clause 10.2.1 of LPS4 states the following

The Council in considering an application for planning approval shall have due regard and may attach conditions relating to these, but not be limited to, such of the following matters as are in the opinion of the Council relevant to the use or development subject of the application—

- (n) *whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, tidal inundation, subsidence, landslip, contamination, pollution or any other risk,*

The risk of flooding for this development site is either from:

- flooding through a rising water table level,
- stormwater flooding from off-site or on-site sources; or
- a combination of the above.

The City is undertaking measures to address any drainage issues within the street system within this locality by undertaking a drainage study, followed by drainage works that are anticipated to be completed around 2015/2016. This should reduce the potential for any flooding of private property, but this will not address the other sources of flooding.

Other Design Issues

There are a number other issues that would need to be addressed, such as the size of the laundry area, rubbish storage, etc. These, whilst of concern, could be addressed through conditions of planning approval and is therefore not listed as a reason for refusal.

Other Planning Related Issues Raised During Consultation Process

Security Will Be Compromised To Residents

This matter relates to a gate that has been provided across Nos. 12-16 and 18-24 Queen Victoria Street and the right of carriageway that is located on No 18-24 Queen Victoria Street, as a consequence of a SAT decision. As stated in the report, the owners/occupiers of No 5 Beach Street have a right to use the 2.5m right of carriageway. The use and operation of the gate will be a matter that will need to be resolved by the parties concerned.

The City's concern in this matter is whether it is appropriate to have the volume of traffic at the different hours that it is to be used by the proposed development, and its subsequent impact on the amenity of the abutting property owners/occupiers, which has been discussed above.

Impact of noise and pollution

The applicant is proposing to provide electric scooters for the use of its occupants and as such, it has been argued that these types of vehicles are quiet and have zero emissions. If approval is considered, a condition of approval should be included to ensure that the use of electric scooters are provided and maintained for the life of the approval, rather than allowing the use of other forms of scooters that are not quiet.

The matter of other forms of noise generated from the development site and the users of the right of carriageway is a proper planning consideration.

Unauthorised works

As stated previously in this report, the matter of unauthorised works is a matter separate to the consideration of this application for Planning Approval.

Existing building structures across the boundary

Existing building structures project across the boundary onto the adjoining site. This is a matter between the owner and the adjoining property owner.

CONCLUSION

The proposed development, with its incomplete construction, is a significant intensification of use from the previous planning approval for the site that has since lapsed. The increase in the intensity of use with new land uses proposed for the site will result in a development that will have an adverse affect upon the surrounding properties. Primarily, the use of a 2.5m right of carriage for all access to the on-site car parking spaces and scooter parking is considered inappropriate and not supported. Any changes to address this issue will require major design changes to the development.

The use of scooter car parking is proposed as a substitute for providing the required number of on-site car parking spaces for tenants to the Tourist Accommodation. Whilst the provision of a small amount of scooter parking would be considered appropriate, the extent of scooter parking proposed is considered inappropriate. Further, the provision of little or no on-site car parking for the proposed public uses is considered inappropriate having regard to the restricted public parking arrangements that exist in Beach Street and in the Council car parking areas, which is on land that is leased on a short term basis from the PTA.

Further, the lowering of the ground levels of the site and the estimated level of the water table creates a potential flooding risk to habitable and non-habitable floor levels on the ground level of the development. An engineering solution might address this issue or the raising of ground and floor levels to an acceptable level, however, the design solution and any outcomes from one of these options are not known.

Having regard to the above, it is recommended that the application for Planning Approval be refused.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Cr A Sullivan

That Council, in response to the request by the State Administrative Tribunal to review its decision under Section 31(1) of the State Administrative Tribunal Act 2004, sets aside the deemed refusal under Section 31(2)(c) of the State Administrative Tribunal Act and substitutes the following decision:

That the application be **REFUSED** under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the retrospective approval for unauthorised works and approval for proposed works and change of land use to Tourist Accommodation, Offices, Restaurant, Small Bar, Theatre, Private Recreation, Caretakers Dwelling at No. 5 (Lot 123) Beach Street, Fremantle, as detailed on plans dated 18 December 2009, for the following reasons:

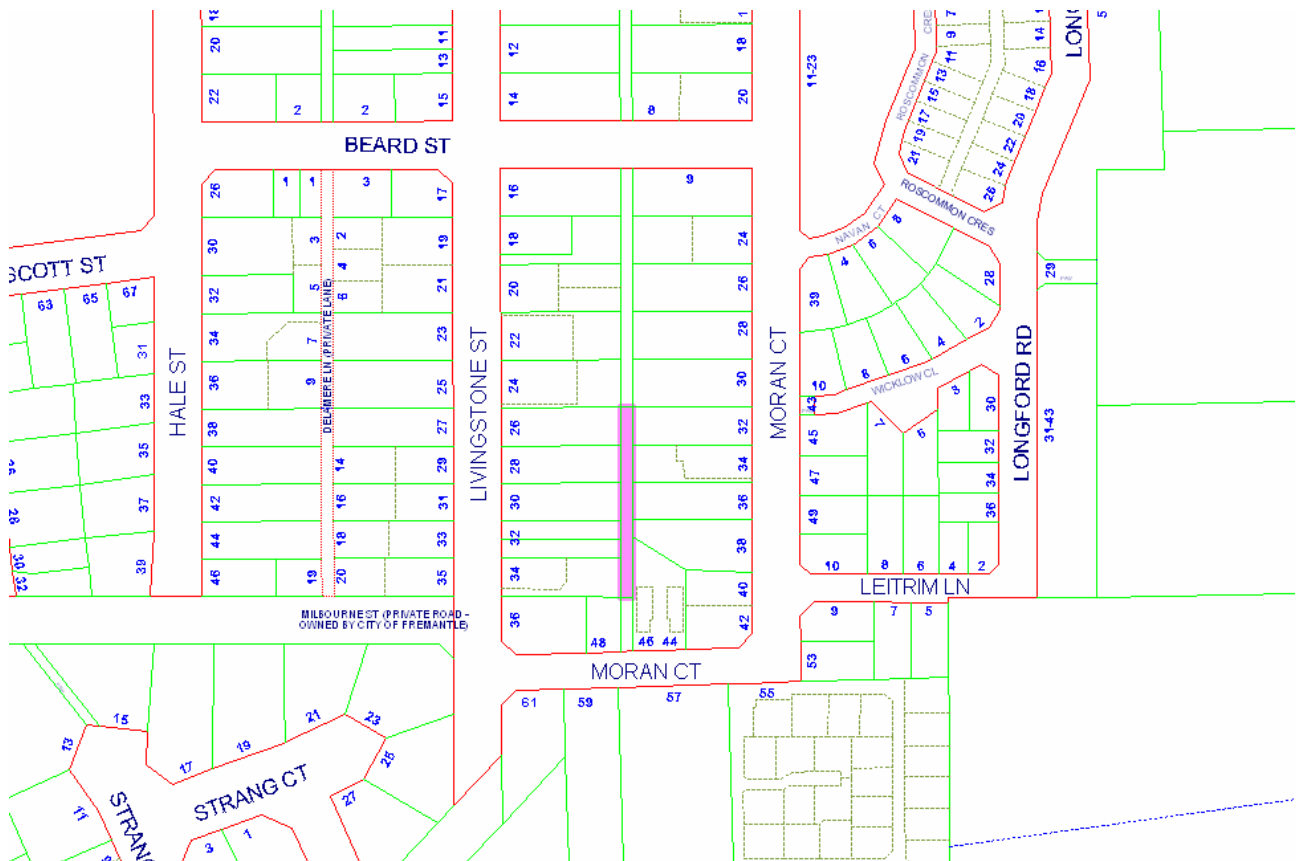
- (a) the proposed development does not meet the minimum car parking requirements of Table 3 of LPS4;
- (b) the use of the 2.5m wide right of carriageway for sole access to the car parking area located at the rear of the site will have a detrimental impact on the amenity of the adjoining properties; and
- (c) the excavation of the site is likely to have a detrimental impact on the development due to the potential risk for flooding of the ground floor habitable rooms from either stormwater runoff, a rising water table level or both.

CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

PSC1006-109 MORAN COURT, NO. 46C (LOT 79) BEACONSFIELD - PROPOSED TWO STOREY SINGLE HOUSE (AH DA0016/10)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: N/A
Attachments: Development plans
Date Received: 12 January 2010
Owner Name: Hendry
Submitted by: Hendry
Scheme: Residence R25
Heritage Listing: N/A
Existing Landuse: Vacant
Use Class: Single house
Use Permissibility: P



EXECUTIVE SUMMARY

Planning approval is sought to construct a single storey dwelling on a vacant freehold lot known as No. 46/C (Lot 79) Moran Court.

The property was previously known as No. 34 (Lot 79) Moran Court and was granted planning approval on the 18 July 2007 by Planning Services Committee for a single storey two bedroom dwelling. The previous planning approval has since lapsed and as such the applicant has resubmitted the same plans for approval.

There has been no material change to the planning framework, with exception to the adoption of Local Planning Policy 2.4 – Boundary walls in Residential Development however this is not considered to significantly change the assessment of the application.

The proposed development includes the same variations as previously approved and as such is recommended for conditional approval.

BACKGROUND

No. 46/C (Lot 79) Moran Court is a vacant freehold lot that has vehicle access to the south over an existing public Right Of Way (ROW). The property was previously known as No. 34 (Lot 79) Moran Court. The block has a length of 79.6m and a width of 5m (398m²) and is oriented north/south.

At Planning Services Committee on 18 July 2007 planning approval was granted for a single storey two bedroom single house (refer to PSC item 0707-202 – DA59/07).

As part of determining the application, the City sought legal advice to determine whether there were restrictions on site that would not normally apply to any other residential lot.

The City was advised that it would appear that the lot was originally created as a right of way, however is now owned as a green title lot and has been in private ownership since at least 1922.

The only access requirement relates to an easement in favour of Lot 77 (Now known as 34 (Strata lot 2) Moran Crt) which is unaffected by the proposed development.

Furthermore, the legal advice also stated that given the unusual dimensions of Lot 79, any residential development is unlikely to comply with the Acceptable Development requirements of the R-Codes, however provided the development meets the relevant Performance Criteria of the R-Codes the proposed development could be assessed the same as any other application.

DETAILS

The previous planning approval granted for this site expired on the 18 July 2009 and as such the applicant is re-applying for planning approval for the same development as previous approved.

There has been no material change to Local Planning Scheme No. 4 that would affect how the proposal is assessed. However, there has been a new Local Planning Policy adopted that affects this proposal.

Local Planning Policy 2.4 – Boundary walls in Residential Development was adopted on the 22 October 2008 and introduces new Acceptable Development criteria and additional Performance Criteria to be applied in assessing boundary walls.

There has been no material change to the surrounding area with exception to No. 32 and 32/A Livingstone Street which has since completed construction of two, two storey single houses. The completion of these dwellings is not considered to significantly alter the assessment of the proposal as the previous approval was determined with the knowledge that planning approval had been granted for No. 32 and 32/A Livingstone Street to be developed.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4

Clause 5.3.2 and the R Codes permit approval of development on a pre-existing lot or any lot created by the Commission, even where the lot does not meet the required area or frontage.

Residential Design Codes of W.A. (2008)

The following Performance Criteria assessments are required as part of this application:

- DE 6.3.2 – Buildings on the boundary
- DE 6.4.1 – Open Space
- DE 6.6.1 – Excavation or fill

Local Planning Policy

Council's Local Area Policy *D.G. B3 – Moran, Beard and Livingstone Streets Local Area* applies to the development area however it has limited application with respect to the proposed development.

Local Planning Policy 2.4 – Boundary walls in Residential Development applies to this proposal and replaces the Acceptable Development criteria and introduces new Performance Criteria.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4, as it includes boundary walls which do not meet the replacement Acceptable Development criteria of the R-Codes. At the conclusion of the advertising period, being 3 February 2010 the City had received 4 submissions.

The following issues were raised:

- Proposed development is out of character with the adjoining residences and would detract from the amenity of the area.
- Boundary wall will significantly exceed normally acceptable length.
- Property has been used as a laneway by adjoining residents for over 30 years.
- Development is too bulky for the size of the land.
- Overshadowing of adjoining properties.
- Privacy of adjoining properties will be impacted.
- Garage door exceeds standard width.

PLANNING COMMENT

Local Planning Scheme No. 4

The application is identical to a previous approval issued by the City on the 18 July 2007 and there has been no material change to LPS 4 that would affect the assessment of this application.

Therefore, the proposal is still considered consistent with the provisions of LPS 4.

Residential Design Codes of W.A. (2008)

The proposal is considered to comply with the Acceptable Development requirements of the R-Codes with exception to DE 6.3.2 - Buildings on the boundary, DE 6.4.1 – Open Space and DE 6.6.1 - Excavation or fill.

The previous application was considered to comply with the Performance Criteria of the above, (refer to PSC item 0707-202) however due to the adoption of Local Planning Policy 2.4 – Boundary walls in Residential Development; the Performance Criteria for boundary walls has been altered.

DE 6.3.2 – Buildings on the boundary

LPP 2.4 has altered the Performance Criteria of DE 6.3.2 by including the following Performance Criteria:

In considering any application under the performance criteria in clause 6.3.2 P2 of the Residential Design Codes, the Council will have particular regard to comments made by neighbouring owners / occupiers of adjoining properties, and will only consider these criteria to be met where it is satisfied that no adverse impacts on the amenity of the neighbouring property will occur.

In this instance it is considered that the additional Performance Criteria inserted by LPP 2.4 into the assessment of boundary walls would not have any significant change to the previous assessment of the proposal as the comments of neighbouring owners were considered as part of the original consultation process.

Given that the site is only 5m in width, it is considered necessary to construct boundary walls on both the eastern and western boundaries in order to make effective use of space and enhance the amenity of the development.

The proposed boundary wall is situated along the rear boundaries of the adjoining properties and does not cause any significant overshadowing or restrict solar access to the habitable spaces of the adjoining properties as determined by the R-Codes.

It is also important to note that the affected properties generally have extensive rear yards which are unlikely to be significantly impacted upon by the proposed boundary walls.

Therefore it is considered that the proposal is appropriate considering the constraints of the site and thus meets the Performance Criteria of LPP 2.4 and DE 6.3.2 of the R-Codes.

DE 6.4.1 - Open Space

Required	Proposed
50%	45.7%

Sufficient open space is provided to complement the building and suit the future needs of residents without detracting from the amenity of the streetscape and may be supported under the Performance Criteria of the R-Codes. The proposed development will retain the natural impression of the property despite a fall of approximately 6m from the northern end to the southern end of the site.

Active habitable indoor and outdoor areas have been oriented to the northern end of the site to maximise solar access. The dwelling is broken up into two sections to improve air circulation and the living room is provided with clerestory windows to improve access to natural light. Despite the limitations of the site, the proposed development attempts to maximise opportunities for energy efficiency while limiting overshadowing and other negative impacts on the adjoining properties. For these reasons the application is considered to meet the Performance Criteria of DE 6.4.1.

DE 6.6.1 – Excavation or fill

Permitted	Proposed
0.5m fill	1.0m fill

Despite a fall over 6m from the northern boundary to the southern boundary of the site and a 4m cliff in near the centre of the proposed development, natural ground levels have been retained as much as possible. Approximately 1m of fill is required near the southern end of the proposed development and within 1m of the property boundary, however this is considered appropriate given the unusual characteristics of the property which requires a more unconventional design approach. The natural impression of the site is generally retained and as such the proposal is considered to meet the Performance Criteria of DE 6.6.1.

Local Planning Policy

LPP 2.4 – Boundary Walls in Residential Development

Please refer to comment under DE 6.3.2 – Buildings on the boundary.

D.G. B3 – Moran, Beard and Livingstone Streets Local Area

D.G. B3 relates to the retention of the existing Right Of Way and in this instance the proposed development does not impact upon the Right Of Way that is located adjacent to the lot.

The proposal therefore complies with D.G. B3.

Response to Submissions

Streetscape and Amenity of the area

The proposed development will have a minimal impact on the streetscape and the character of the area given that it has a 5m wide street frontage and is setback approximately 31m from Moran Street.

Surveillance of the street and the approach to the dwelling are restricted however the site restrictions prevent the garage from being reoriented to provide surveillance from any habitable room.

The restrictions of the site prevent the garage from being located in line with or behind the proposed building setback. While the garage door occupies 100% of the street frontage, it is considered reasonable to support a variation given that the property is only 5m wide.

The garage door is also setback more than 31m from the street and will therefore not be highly visible from the street and will therefore have a minimal impact on the streetscape.

Height & Bulk

The proposed roof height complies with the provisions of the R Codes. Therefore the protection of 'views of significance' under the performance criteria of Clause 6.7.1 of the R Codes does not apply given that the maximum wall height does not exceed 6m.

Parking and access

The garage width is not suitable for two vehicles, however site restrictions limit the width of the garage to 5m. Tandem parking is available to accommodate more than two vehicles and as such this satisfies the Acceptable Development requirements of the R-Codes.

Overshadowing

The property is oriented North-South and as such the shadow cast by the proposal as determined by the R-Codes would not affect any other dwellings.

Visual Privacy

The application has been assessed against and is considered to comply with the provisions of the R-Codes in relation to DE 6.8.1 – Visual Privacy.

Proposed use as laneway

The original purpose for the creation of the lot is not a reasonable planning consideration for the proposed development. The prior use of the property as a laneway is not a relevant planning consideration as it is understood that the lot was created into a Freehold title and has been in private ownership since at least 1922.

An easement exists over the northern portion of the land in favour of Lot 77 (Now No. 34A (Strata Lot 2) Moran Court). The easement required that the owner of Lot 79 must not construct any structure on the easement without the consent of Lot 77. The proposed development appears to take into account the restriction imposed by the easement with no part of the proposed development encroaching upon the easement. On this basis, the adjacent land owners access rights appear to have been acknowledged.

Any claim however that adjacent landowners may make over access rights would be a civil matter between the respective property owners.

The impact of the proposed development on land values is also not a relevant planning consideration.

CONCLUSION

The applicant has submitted a planning application for a proposed development that is identical to the previous approval issued by PSC on the 18 July 2007.

Changes to the planning framework between the previous approval and this assessment includes an update to the R-Codes (2002 → 2008) and the introduction of LPP 2.4, neither of which are considered to significantly alter the City's assessment of the application.

The same Performance Criteria based assessments have been undertaken and the application is considered to comply.

Therefore, the application is recommended for conditional approval.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Cr A Sullivan

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the single storey single house at No. 46/C (Lot 79) Moran Court, Beaconsfield, subject to the following condition(s):

- 1. The development thereby permitted shall take place in accordance with the approved plans dated 12 January 2010.**
- 2. The proposed structures shall be wholly contained within the subject lot and shall not encroach over the lot boundary.**
- 3. Prior to the occupation of the development, vehicle crossovers shall be constructed in paving block/concrete/bitumen and thereafter maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 4. Prior to occupation of the development hereby permitted, satisfactory arrangements being made for the right of way from Moran Court (South), to the end of Lot 79 Moran Court to be constructed to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 5. Prior to occupation, the boundary wall located on the western and eastern side boundaries shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 6. All storm water discharge shall be contained and disposed of on-site.**

Advice note:

- (i) This planning decision is confined to the authority of the Planning and Development Act 2005 and the City of Fremantle Local Planning Scheme No. 4. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements or encumbrances are adhered to.**

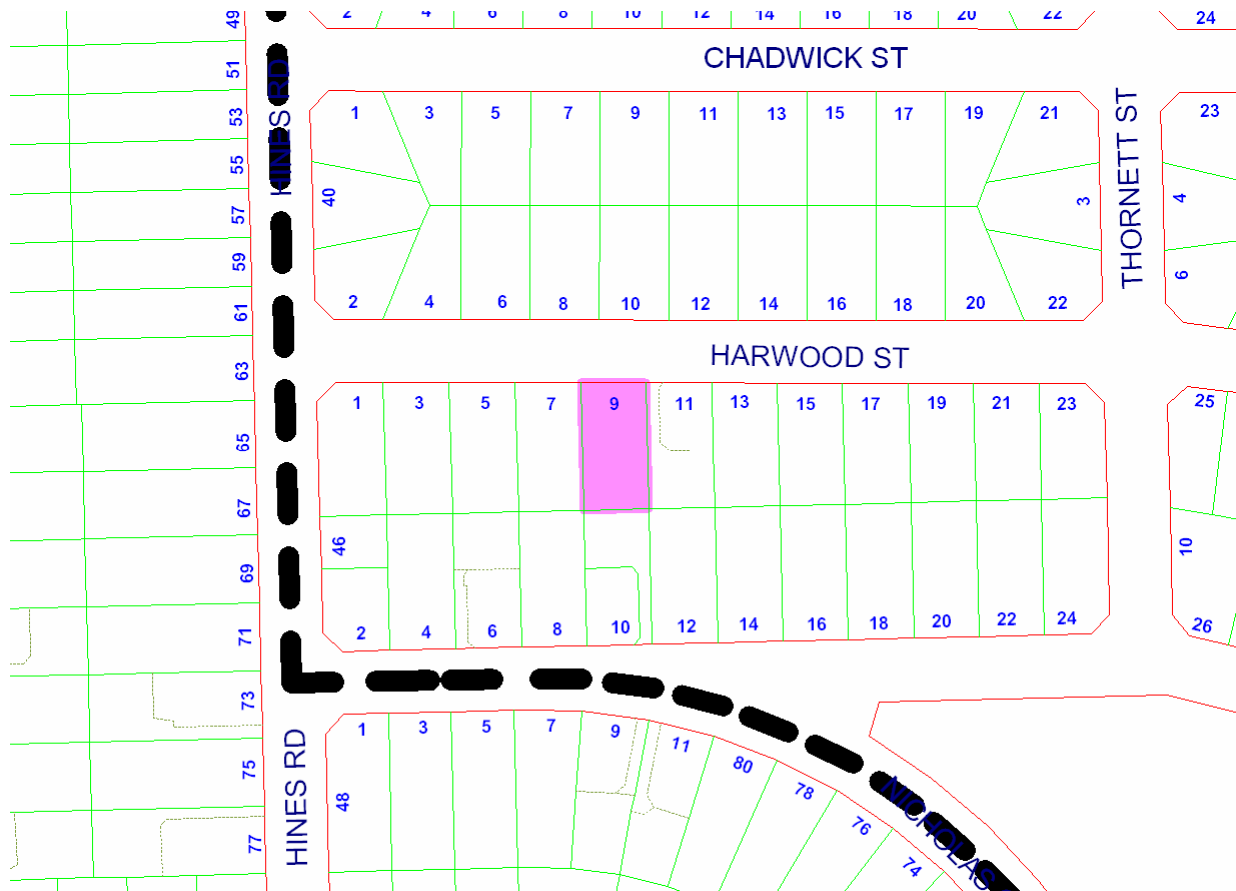
CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

Cr T Grey-Smith vacated the chamber at 7.53 pm.
Cr T Grey-Smith returned to the meeting at 7.54 pm.

PSC1006-110 HARWOOD STREET NO 9 (LOT 1141) - SINGLE STOREY SINGLE GROUPED DWELLING (DA0133/10)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: Nil
Attachment: Development Plans
Date Received: 12 March 2010
Owner Name: GVC Hydrolics and Gas
Submitted by: RWR Developments T/A Kerdels
Scheme: Residential R20/R25
Heritage Listing: Hilton Garden Heritage Precinct
Existing Landuse: Vacant
Use Class: Single House
Use Permissibility: P



EXECUTIVE SUMMARY

The application is presented before the Planning Services Committee as the development proposes variations from the design requirements of the City of Fremantle's (the City) *D.G.H3 Hilton Local Area Planning Policy*.

The applicant is seeking Planning Approval for a single storey Single House to be constructed on the front portion of the parent property located at No. 9 (Lot 1141) Harwood Street, Hilton.

The proposed development satisfies the relevant requirements of the City's Local Planning Scheme No. 4 (LPS4), Residential Design Codes 2008 (R-Codes) and Councils L.P.P2.2 – Split Density Codes and Energy Efficiency Policy.

However, the proposed development does not comply with the following design requirements of the D.G.H3 - *Hilton Local Area Planning Policy* relating to 'New Development':

- Minimum external wall height provided 2.7m (required 3m),
- Minimum 450mm eave provision not provided to portions of the eastern elevation of dwelling,
- double width garage being proposed, and
- floor level of proposed dwelling is not a minimum 500mm above ground level of site.

Therefore, the development is not considered to be consistent with the objective of D.G.H3 policy, which is to *'ensure that all new residential development is compatible with the character and scale of the built environment, streetscape, traditional garden settings and urban spaces.'*

Accordingly, the application is recommended for refusal.

BACKGROUND

The subject site is zoned Residential with a split density coding of R20/R25 and is located within the Hilton Local Planning Area (Hilton LPA) as described in Schedule 12 of the City's Local Planning Scheme No. 4 (LPS4). The site is not individually listed on the City's Heritage List, however it is located within the Hilton Garden Heritage Precinct which is prescribed as a Heritage Area under Clause 7.2 of LPS4.

The subject site is known as No.9 Harwood Street, Hilton. The site is currently vacant and is approximately 855m² in area. The existing site has a street frontage lot width of 20m and is located on the southern side of Harwood Street, Hilton. The site is generally orientated in a north-west direction and slopes downwards from the south to the north by approximately 1m.

A review of the property file has found the following relevant planning background:

- On 2 September 2008, the Western Australian Planning Commission (WAPC) conditionally approved a two lot green title subdivision of the subject site (DA137910). To date this subdivision plan has not been endorsed by the WAPC. Condition 1 of this approval requires the demolition of all existing buildings and outbuildings.
- On 13 October 2009 Planning Approval was granted by Council for the demolition of the existing Single House at No. 9 Harwood Street, Hilton (PSC0903-38, DA02/09).

On 12 March 2010 the applicant lodged two planning applications for single storey grouped dwellings to be constructed on the subject site.

The subject application (DA0133/10) proposes to construct a single storey Single House on the front portion of site. This application is subject to the 'Clause 5.1 - New Development' provisions of Council's D.G.H3 policy. Accordingly, for this application the applicant is seeking Council's discretion in relation to the following provisions of Council's D.G.H3 policy:

- *Minimum external wall height provided 2.7m (required 3m),*
- *Minimum 450mm eave provision not provided to portions of the eastern elevation of dwelling,*
- *double width garage being proposed, and*
- *floor level of proposed dwelling is not a minimum 500mm above ground level of site.*

The second application (DA0134/10) proposes to construct a single storey Grouped Dwelling on the rear portion of site. This application is subject to 'Clause 5.4 - Infill Development' provisions of Council's D.G.H3 policy. Therefore, this proposed development would be subject to different design requirements in comparison to the subject development. At the time of writing this report, the City had not determined this application, however a preliminary assessment has found the proposal to be consistent with prescribed design requirements of D.G.H3, apart from minimum external wall height requirements of D.G.H3. As this application has not yet been determined, the subject application will be assessed as a Single House rather than a Grouped Dwelling.

The adjoining property to the west is improved by a single storey single house. The property to the east is improved by two single storey grouped dwellings.

The existing built form of Harwood Street is characterised by single storey single houses with single garages, all setback between 6m and 10m from the front boundaries.

DETAILS

The applicant is seeking Planning Approval for a single storey dwelling on the front portion of the subject site. The proposed dwelling is setback 7m from the front lot boundary and proposes a double width garage door. The dwelling is to be constructed of face brick and 'sheet metal' ridge roof.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4 (LPS4)

The subject site is located within the Hilton Local Planning Area as described in Schedule 12 of LPS4. Schedule 12 requires Residential development to comply with the requirements of the Residential Design Codes (R-Codes).

Residential Design Codes 2008

The proposed development has been assessed against and complies with all the relevant Acceptable Development requirements of the R-Codes, apart from *Design Element 6.7.1 - Building height*. Council's *D.G.H3 – Hilton Local Area Policy* provides alternative height requirements for residential developments within this locality. Further discussion relating to this matter will be included in the 'Planning Comment' section of this report.

Council Policies

The proposed development has been assessed against Council's D.G.H3 - Hilton Local Area Planning Policy (D.G.H3), and is deemed to comply with all requirements as per Clause 5.1 'New Development' of D.G.H3, apart from the following:

Clause 5.1.2 Building height

- Minimum external wall height provided 2.7m (required 3m),

Clause 5.1.3 – Form/Proportion

- (c) - Minimum 450mm eave provision not being provided to portions of the eastern elevation of dwelling,

Clause 5.1.4 Garage /Carports

- (a) - double width garage being proposed, and

Clause 5.1.5 – Positioning

- Floor level of proposed dwelling is not a minimum 500mm above ground level of site.

Further discussion relating to variations associated with the above statutory requirements will be included in the 'Planning Comment' section of this report.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4 and *LPP1.3 Public Notification of Planning Proposals* policy. At the conclusion of the advertising period, being 15 April 2010, the City had received one submission from an adjoining landowner stating concerns with possible excavation works and dividing fence damages.

The applicant is proposing less than 500mm of fill and excavation for the site, therefore complying with *Clause 8.2 – Permitted Development* provisions of LSP4. This level of site works is not considered to be significant and therefore is not envisaged to create any undue impact on neighbouring properties. In relation to the concerns raised regarding potential damage occurring to existing dividing fences, this matter is not considered to be a relevant planning matter and raises issues which would need to be dealt with as a civil matter.

PLANNING COMMENT

The guiding principle of the City's local planning policy, *D.G.H3 Hilton Local Planning Area Policy* (D.G.H3), is that '*new development should reinforce and complement the garden suburb character and streetscape characteristic of Hilton.*'

The proposed development is consistent with the design requirements of the policy in terms of the front setback, side boundary setbacks, roof pitch and the majority of form/proportion and positioning requirements. However, the development proposes the following variations from the policy:

Building Height

Required	Provided
Minimum external wall height from ground level of 3.0 metres	2.7m

The applicant is proposing a 3m external wall height for the front portion of the dwelling making this portion of the development comply with D.G.H3, however the proposed development fails to meet the minimum external wall height requirement for the rear portion of the dwelling. The applicant proposes a minimum external wall height of 2.7m for the rear portion of the dwelling in lieu of the required 3m. Council may consider this variation supportable as the streetscape presence of the development would replicate the required minimum external wall height for dwellings within Hilton.

Form and Proportion

Required	Provided
Minimum eave width of 450mm	450mm - nil

The applicant has provided 450mm eaves for the northern (front), western and southern (rear) elevations of the dwelling. However, the proposed development fails to provide the minimum 450mm width eave requirement for three small portions of the eastern elevation where the dwelling abuts the proposed vehicle access leg.

Oversize Single Garage Forward of the Dwelling

Required	Provided
Front face of a single garage or carport width only	Double garage width

The proposed width of the garage, being 6m (inclusive of supporting structures), is contrary to the above requirement of D.G.H3. Double garages do not form part of the design characteristics of original dwellings within Hilton. It is therefore considered that the variation would not satisfy the objective of the policy to ensure that development is compatible with the character of the built environment or to ensure that new development enhances the features of the garden suburb.

Positioning

Required	Provided
New dwellings on the street frontage shall be raised a minimum of 500mm above the ground	-300mm to 500mm above natural ground level

The majority of dwellings surrounding the subject site have a finished floor level of 500mm above natural ground level. Therefore taking into account the existing built form within the immediate locality it is considered 'ideal' for the proposed dwelling to incorporate a floor level in accordance with this requirement. Accordingly the floor level is contrary to the requirements of clause 5.1.5 of D.G.H3.

CONCLUSION

Although, the abovementioned variations individually could be considered as minor in nature and could be supportable on an individual basis, the accumulation of non compliance has the potential to result in a development that would not reinforce or complement the character of the garden suburb and the Harwood streetscape characteristic of Hilton.

Overall, the proposed development does not meet the '*New Development*' design requirements of Council's D.G.H3 Hilton Local Area Planning Policy with regards to minimum building heights, form/proportion, the width of garage doors and positioning of the proposed dwelling. Therefore, the proposed development is considered contrary to the objective to ensure that '*all new residential development is compatible with the character ... of the built environment and streetscape*' and is not considered to enhance the features of the garden suburb. Accordingly, the application is recommended for refusal.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That the application be **REFUSED** under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for a Single House at No. 9 (Lot 1141) Harwood Street, Hilton, as detailed on plans dated 12 March 2010, for the following reasons:

1. The proposal is inconsistent with the 'New Development' design requirements of the City of Fremantle Local Planning Policy D.G.H3 Hilton Local Area Planning Policy regarding building height, form/proportion, width of garage doors and positioning.

CARRIED 4/3

Cr A Sullivan used his casting vote FOR the recommendation resulting in it being CARRIED.

For	Against
Cr Andrew Sullivan Cr Josh Wilson Cr John Dowson	Cr Tim Grey-Smith Cr Bill Massie Cr Robert Fittock

The above item is referred to the Ordinary Meeting of Council for determination in accordance with 1.1 or 2.1 of the City of Fremantle Delegated Authority Register which requires that at least 5 members of the committee vote in favour of the Committee Recommendation in order to exercise its delegation.

Cr R Fittock vacated the chamber at 8.07 pm.
Cr R Fittock returned to the meeting at 8.08 pm.

PSC1006-111 HARWOOD STREET, NO. 40 (LOT 889) HILTON - SINGLE STOREY SINGLE HOUSE (JWJ DA0614/09)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 16 June 2010
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: N/A
Attachment 1: Development plans (amended May 2010)
Attachment 2: Applicant's justification for variations (May 2010)
Date Received: 6 November 2009
Owner Name: C. Pritchard
Submitted by: Content Living
Scheme: Residential R20/R25
Heritage Listing: Hilton Garden Heritage Precinct
Existing Land Use: Vacant
Use Class: Residential (Single House)
Use Permissibility: 'P'



EXECUTIVE SUMMARY

The application is presented before the Planning Services Committee as the development proposes variations from the design requirements of the Residential Design Codes 2008 and Council's Local Planning Policy, *D.G.H3 Hilton Local Area Planning Policy*.

The applicant is seeking Planning Approval for a single storey Single House at No. 40 (Lot 889) Harwood Street, Hilton.

The proposed development does not comply with the design requirements of the *Hilton Local Area Planning Policy* relating to boundary walls, boundary setbacks, external wall height, garage width, eave width and floor levels. Accordingly the development is considered inconsistent with the objective of the policy, being to *'ensure that all new residential development is compatible with the character and scale of the built environment, streetscape, traditional garden settings and urban spaces.'*

Accordingly, the application is recommended for refusal.

BACKGROUND

The subject site is zoned Residential under the City of Fremantle's (the City) Local Planning Scheme No. 4 (LPS4) and has a split density coding of R20/R25. The site is not individually listed on the City's Heritage List but is located within the Hilton Garden Precinct which is a designated Heritage Area under clause 7.2 of LPS4.

The site is 531m² and is located on the northern side of Harwood Street, Hilton. The site is currently vacant.

The subject site is irregular in its configuration, resulting from a subdivision approved on 23 December 2008 (refer DA137590) upon which the boundary alignment was modified to retain the existing house currently located on the parent lot (No. 84 Snook Crescent). As a result, the lot width at the street frontage is 16.8m, angled inwards towards the centre of the site to a width of 10.8m, and then widens to a rear width of 25.4m. Neither side boundaries are perpendicular to the street, nor are they parallel to one another.

The adjoining properties to the east and west are both improved by single storey dwellings. The western adjoining property has a street setback approximately of 10.5m. The eastern adjoining property has a street setback of approximately 12m from the corner of Harwood Street and Snook Crescent. The existing built form of Harwood Street is characterised by single storey dwellings which have street setbacks between 6m and 9m. The majority of the existing dwellings along Harwood Street are setback appropriately from the side boundaries, however several dwellings exist which incorporate boundary walls or reduced setbacks within close proximity to the subject site.

DETAILS

On 6 November 2009, the City received a development application seeking Planning Approval for the construction of a single storey Single House at No. 40 (Lot 889) Harwood Street, Hilton.

The applicant submitted amended plans on 29 January 2010, following the City's request to rectify several proposed variations pertaining to Council policies *DGH 3 Hilton Local Area Planning Policy* (DGH 3), *LPP 2.4 Boundary Walls in Residential Development* (LPP 2.4) and *DC 6 Garages / Carports in Front of Dwellings / Buildings* (DC 6). The amended plans included:

- Change of roof pitch to 27.5 degrees;
- Bed 1 windows changed to be horizontally proportioned.

As part of the submission of amended plans, the applicant provided justification for:

- Originally proposed east and west boundary walls;
- Double garage forward of the dwelling.

The development plans, dated 29 January 2010 included the following variations to the requirements of the Residential Design Codes 2008 (R-Codes) and relevant Council Local Planning Policies:

- Eastern and western boundary walls with nil setbacks in accordance with Council's policy LPP 2.4 and *Design Element 6.3.2 Buildings on Boundary* (DE 6.3.2) of the R-Codes;
- Reduced eastern and western boundary setbacks of 1.2m and 1.6m respectively, in accordance with Council's policy DGH 3;
- Double garage forward of the dwelling in accordance with Council's policy DC 6;
- External wall height of 2.7m in accordance with the minimum building height requirements of Council's policy DGH 3;
- Minimum eave width of 500mm to the north western portion of the dwelling with the requirement being a minimum of 450mm eave width for the entire dwelling, in accordance with the form / proportion requirements of Council's policy DGH 3; and
- Approximate finished floor level (FFL) between nil and 280mm in accordance with building positioning requirements Council's policy DGH 3.

After further assessment and discussion with the applicant, a new set of amended plans were submitted on 13 May 2010, which contained several changes including the removal of the proposed eastern and western boundary walls of the dwelling, in order to address adjoining neighbours' concerns.

Subsequently, the amended development plans, dated 13 May 2010 (Attachment 1) propose the following variations to the requirements of the R-Codes and Council's Local Planning Policies:

- Eastern boundary wall (600mm setback to the 'pinch point' of the common boundary);
- Reduced eastern and western boundary setbacks of 1m respectively;
- Oversized single garage forward of the dwelling;
- Minimum external wall height of 2.8m from natural ground level (NGL) to the top of the wall plate;
- Minimum eave width of 500mm to the north western elevation of the dwelling; and
- Minimum floor level of approximately between nil and 280mm above natural ground level.

As part of the amended plans dated 13 May 2010, the applicant submitted justification for variations against the provisions of Council policy DGH 3 (Attachment 2).

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4

The subject site is located within the Hilton Local Planning Area as prescribed in Schedule 12 of LPS4. Schedule 12 requires Residential development to comply with the requirements of the R-Codes.

Residential Design Codes 2008

The proposed development complies with the relevant 'Acceptable Development' criteria of the R-Codes with the exception of the requirements pertaining to the proposed eastern boundary wall, as replaced by Council's policy LPP 2.4.

Council Local Planning Policies

The proposed development has been assessed against the following Council policies:

- *DGH 3 Hilton Local Area Planning Policy;*
- *LPP 2.4 Boundary Walls in Residential Development.*

CONSULTATION

Community

The application was required to be advertised in accordance with *LPP 1.3 Public Notification of Planning Approvals*, as the application included variations to the provisions of DGH 3 and LPP 2.4 in relation to the originally proposed boundary walls and reduced boundary setbacks. At the conclusion of the advertising period, being 17 February 2010, the City had received three submissions. The following issues were raised:

- Objection to the western boundary wall;
- Objection to non-compliance with Council policy DGH 3 in regards to boundary setback requirements; and
- Concern regarding potential impact of the proposed development on the existing streetscape.

As part of the submission of amended development plans dated 13 May 2010, the applicant submitted signed plans from adjoining neighbours of 34 and 38 Harwood Street and 84 Snook Crescent, stating 'no objection' to the amended development proposal.

PLANNING COMMENT

The proposed development is compliant with the requirements of the Residential Design Codes with the exception of the *Design Element 6.3.2 Boundary Walls* (DE 6.3.2). Furthermore the applicant is proposing a number of variations to the requirements of DGH 3. These components are discussed below.

Eastern Boundary Wall

Council's policy LPP 2.4 provides alternate 'Acceptable Development' criteria to those of the R-Codes.

The applicant proposes a boundary wall of the eastern elevation of the dwelling at the 'pinch point' of the lot with a setback of 600mm. It is worth noting that a boundary wall is defined as '*walls built up to, or within 750mm of, a boundary behind the front setback line*' in accordance with LPP 2.4.

LPP 2.4 states:

'In considering any application under the performance criteria in clause 6.3.2 P2 of the Residential Design Codes, the Council will have particular regard to comments made by neighbouring owners / occupiers of adjoining properties, and will only consider these criteria to be met where it is satisfied that no adverse impacts on the amenity of the neighbouring property will occur.'

The applicant has provided amended plans, which have been signed by the eastern adjoining neighbour at 84 Snook Crescent and stating 'no objection'. Accordingly, this component of the application shall undergo a performance based assessment of the R-Codes.

The proposed boundary wall consists of a portion of the eastern elevation of the dwelling abutting the 'pinch point' of the eastern common boundary of the lot and will abut the north western corner of the dwelling at 84 Snook Crescent. The boundary wall will be 4.4m in length and 2.4m in height. The proposed boundary wall is considered to make effective use of space, in developing closer to the 'pinch point' of the site, allowing a greater amount of area available for use as an outdoor living area which has exposure to the northern aspect of the site. As stated previously the adjoining neighbours have stated no objection to the proposal. Furthermore the wall will not encroach on sunlight available to the eastern adjoining property due to the north-south alignment of the wall. The proposal is considered to satisfy the requirements of LPP 2.4.

It is noted that whilst the proposal satisfies the requirements of LPP 2.4, the requirements of DGH 3 are clear in stating that boundary walls are not permitted.

DGH 3 Hilton Local Area Planning Policy

Eastern and Western Boundary Setbacks

The applicant is proposing reduced boundary setbacks in accordance with the provisions of DGH 3:

Required	Provided
Eastern boundary setback – 3.5m	1m
Western boundary setback – 1.5m	1m

It is noted that the site is of an irregular lot configuration, with six boundary lines that are not parallel to one another. As mentioned previously, the configuration of the site is a result of the subdivision of 84 Snook Crescent and the retention of the original dwelling on the corner lot. Furthermore the size of the site is less than the average subdivided lot size in Hilton. This presents considerable limitations in the development of the site, including compliance with the setback requirements of DGH 3. On this basis the variation is supported.

Building Height

Required	Provided
Minimum external wall height from ground level of 3.0 m	2.7m

The applicant proposes a minimum external wall height of 2.7m for the dwelling in lieu of the required 3m. Accordingly this component is contrary to the requirements of clause 5.1.2 DGH 3 and is not supported.

Form and Proportion

Required	Provided
Minimum eave width of 450mm for entire dwelling	500mm - nil

The applicant has provided 500mm eaves for the north eastern (rear) elevation of the dwelling. However, the proposed development fails to provide the minimum 450mm width eave requirement for the rest of the development. Accordingly these elements are contrary to the requirements of clause 5.1.3 of DGH 3 and are not supported.

Oversize Single Garage Forward of the Dwelling

Required	Provided
Front face of a single garage or carport width only	Double garage width to façade of structure

Whilst the applicant is proposing a single garage internally, the façade of the structure is greater than that required for a single garage. Accordingly this component is contrary to the requirements of clause 5.1.4 of DGH 3 and is not supported.

Positioning

Required	Provided
New dwellings on the street frontage shall be raised a minimum of 500mm above the ground	Approximately between nil and 280mm above natural ground level

The properties surrounding the site have a finished floor level of 500mm above natural ground level. It is considered an 'ideal' outcome that the proposed dwelling has a floor level in accordance with this requirement. Accordingly the floor level is contrary to the requirements of clause 5.1.5 of DGH 3 and is not supported.

CONCLUSION

As discussed above, the subject site is constrained in respect to development due to the irregular configuration of the subject site. Accordingly the proposal consists of a number of variations of DGH 3, which can be largely attributed to the configuration of the lot. Furthermore, the abovementioned variations individually could be considered as minor in nature and could be supportable on an individual basis. However, the accumulation of non-compliance has resulted in a development that would not reinforce or complement the character of the garden suburb and the streetscape character of Hilton.

The development is required to be considered in light of the objective of the Hilton Local Area Planning Policy, being to ensure all new residential development is compatible with the existing character and scale of the built environment, streetscape, traditional garden settings and urban spaces of the policy area. Taking into account all of the above-mentioned variations to Council's DGH 3 it is considered that the development does not satisfy the objective of the Hilton Local Area Planning Policy, and on balance is therefore recommended for refusal.

OFFICER'S RECOMMENDATION

MOVED : Cr A Sullivan

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the proposed Single House at No. 40 (Lot 889) Harwood Street, Hilton, subject to the following condition(s):

1. The proposal is inconsistent with the 'New Development' design requirements of the City of Fremantle Local Planning Policy D.G.H3 Hilton Local Area Planning Policy regarding boundary setbacks, boundary walls, form/ proportion, the width of garage doors and positioning.

COMMITTEE DECISION

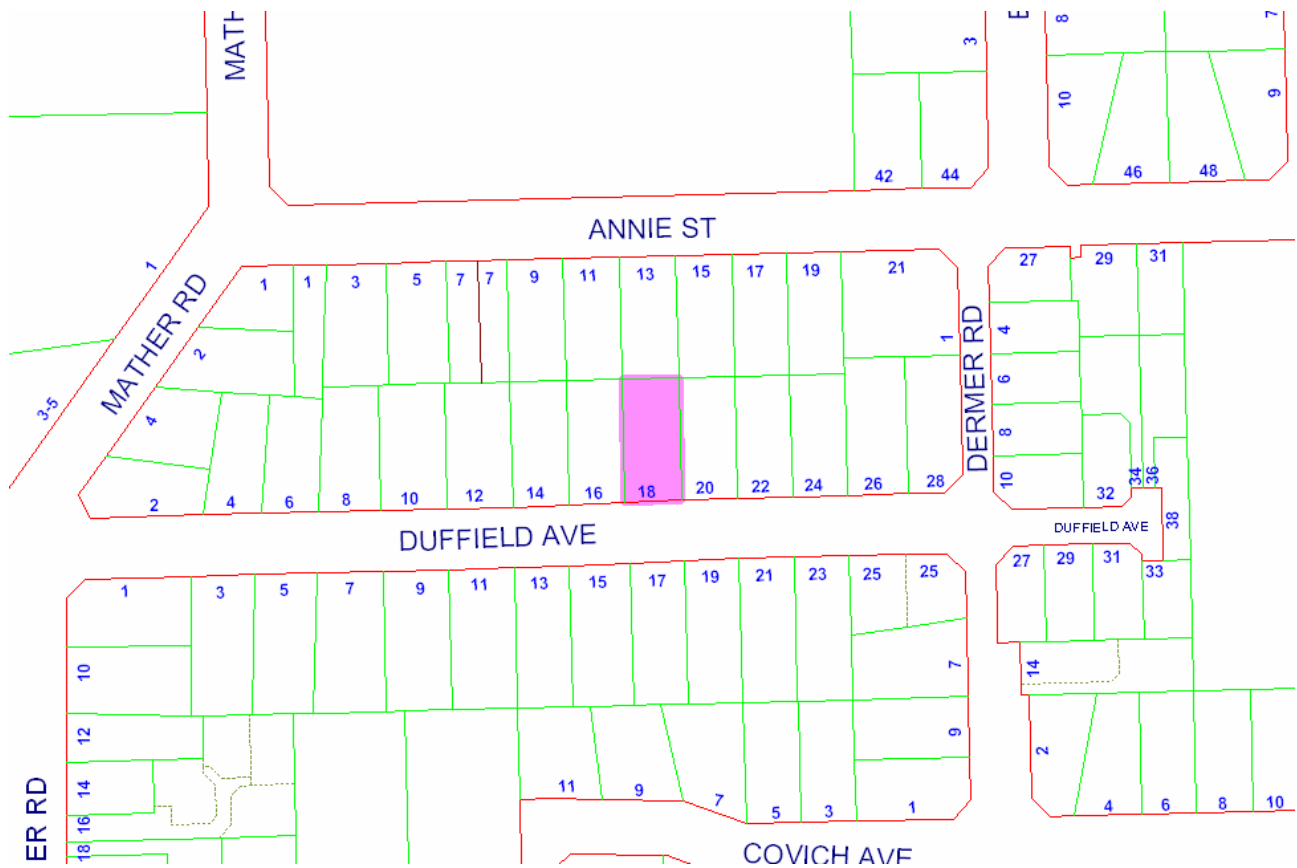
Cr A Sullivan MOVED to defer the item to the next available Planning Services Committee to enable the applicant to consider amendments to the proposed development to address matters raised in the officer's report.

CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

PSC1006-112 DUFFIELD AVENUE, NO. 18 (LOT 191), BEACONSFIELD - PROPOSED CARPORT (AH DA0112/10)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: Nil
Attachment 1: Development Plans
Attachment 2: Applicants Justification
Attachment 3: Streetscape Map
Date Received: 4 March 2010
Owner Name: Marco Serrangeli
Submitted by: Marco Serrangeli
Scheme: Residential R20/25
Heritage Listing: Nil
Existing Landuse: Single House
Proposed Landuse: Single House
Use Permissibility: P



EXECUTIVE SUMMARY

The application is presented to the Planning Services Committee as the proposed development does not satisfy the requirements of the City's Local Planning Policy DC 6 - Carports/Garages in front of Dwellings/Buildings.

Planning Approval is sought for a garage to be located in the front setback area and on the side boundary at No. 18 (Lot 191) Duffield Avenue, Beaconsfield.

The development is considered to satisfy the Performance Criteria of DE 6.3.2 – Buildings on boundary and Local Planning Policy 2.4 - Boundary Walls in Residential Development.

The garage is proposed to be built in front of the building line of the dwelling and there are no other examples in the street of this type of development. The garage does not satisfy the requirements of Local Planning Policy DC 6 Carports/Garages in front of Dwellings/Buildings.

Accordingly it is recommended that the application be refused.

BACKGROUND

The subject site is located at No. 18 Duffield Avenue, Beaconsfield and comprises an existing rendered brick and tile two storey single house with a single stair case on the eastern side providing access to the upper verandah and entry to the dwelling. The ground floor contains roller doors facing the street which is likely to provide access to under-croft parking, as is typical with other dwellings of this design.

The site is zoned R20/25 and is within the Beaconsfield Local Planning Area. The site is not individually listed on the City's Heritage List or Municipal Heritage Inventory.

Duffield Avenue consists of a mix of two storey and single storey, brick and tile dwellings, all of a similar era of construction. An extension to and redevelopment of the eastern end of Duffield Avenue has resulted in a new development type, however it is plainly separate and different to the existing original Duffield Avenue streetscape.

The original Duffield Avenue streetscape is largely consistent, in the sense that the majority of dwellings maintain a similar street setback distance and carports and garages, if existent, are located behind the street setback area.

There is one notable exception to the above as No. 12 Duffield Avenue is setback further from the street than all other dwellings and has constructed a 1.8m high solid front fence. The 1.8m high solid front fence disrupts the streetscape in this location. The fence is erected to protect the front garden area, containing a swimming pool, for privacy.

Furthermore, the dwellings located at the eastern and western most ends of Duffield Street are corner lots and contain duplex developments which are slightly closer to the street and No's. 4, 6 & 9 are not aligned perpendicular to the street.

However, the overriding feature of the street is still maintained in that the dwellings street setback is generally consistent and where carports and garages exist they are in an under-croft configuration or located behind the street setback area. Please refer to Attachment 3 – Aerial Photography for further illustration.

DETAIL

The City received a development application seeking Planning Approval to construct a single storey carport at the front of No. 18 Duffield Avenue, Beaconsfield.

The carport is proposed to be attached to the front verandah of the dwelling and otherwise supported by three rendered brick pillars. The carport would be located on the western boundary and setback 2.12m from the street. The carport would be 7.4m in length along the western boundary and 6.9m in width across the site.

The applicant has provided a signed consent form from the adjoining western property owner.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4 (LPS 4)

- Clause 4.2.1 (a) – Objectives of the Residential Zone; and
- Clause 10.2 – Matters to be considered by the Council.

Residential Design Codes 2008 (R-Codes)

The proposed development has been assessed against and complies with the relevant 'Acceptable Development' requirements of the R-Codes, with the exception of the following Design Elements (DE):

- DE 6.3.2 – Buildings on boundary.

Local Planning Policies

The application was also assessed against the following relevant Council Planning Policies:

- LPP 2.4 Boundary Walls in Residential Development; and
- DC 6 Garages/Carports in front of Dwellings/Buildings.

CONSULTATION

Community

The application was not required to be advertised in accordance with Clause 9.4 of the LPS 4 or LPP 1.3 as the applicant has provided a signed consent form from the neighbouring property owner who is subject to the proposed boundary wall.

PLANNING COMMENT

Residential Design Codes 2008 (R-Codes)

DE 6.3.2 Buildings on boundary

LPP 2.4 replaces the Acceptable Development provisions of the R-Codes with alternative standards. The proposal does not meet the replacement Acceptable Development provisions and is thus required to be assessed against the Performance Criteria of LPP 2.4, which states:

In considering any application under the 'Performance Criteria' in clause 6.3.2 P2 of the Residential Design Codes, the Council will have particular regard to comments made by neighbouring owners / occupiers of adjoining properties, and will only consider these criteria to be met where it is satisfied that no adverse impacts on the amenity of the neighbouring property will occur.

As mentioned previously, the applicant has provided a signed consent form from the affected land owners (western adjoining property) stating that they have no objections to the proposed boundary wall.

The 'Performance Criteria' for boundary walls state:

P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development;*
- *not have any significant adverse effect on the amenity of the adjoining property; and*
- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

It is considered that the proposed location of the pillars and carport roof on the western boundary makes effective use of the space available and that due to the carport abutting an area used as hardstand parking there would be minimal impact on the amenity of the adjoining property nor impact to major openings and outdoor living areas.

Therefore, the proposed boundary wall is considered to meet the Performance Criteria of DE 6.3.2 and LPP 2.4.

Local Planning Policies

DC 6 Garages/Carports in front of Dwellings/Buildings

This policy states that:

1. *Carports and garages will not be allowed in the front setbacks unless:*
 - (i) *There is an existing pattern of carports/garages in the street;*
 - (ii) *The topography of the land is such that the carport/garage can form a part of the existing slope/cliff or retaining wall;*
 - (iii) *The topography of the land is such that the existing house is significantly below the street level;*
 - (iv) *The house is located on a corner lot. In this case a carport/garage can be built to the secondary street;*
 - (v) *The existing house's setback is significantly greater than other setbacks in the street or*
 - (vi) *The subject lot is irregular in shape and location.*

Existing carports and garages within this street are setback behind the front façade of the street and either of an under-croft design or located at the side of dwellings. There is no existing pattern of carports/garages in the front setback area in the street.

The topography of the land is gently sloping from west to east, but is not such that the carport is required to form part of the slope/cliff or a retaining wall.

The house is not significantly below the street level and instead sits relatively high in the street.

The existing house's setback is consistent with other setbacks in the street and this is largely the same for the remainder of the street.

The lot is not irregular in shape or location.

Therefore, the proposed carport is not considered to comply with Local Planning Policy DC 6 Garages/Carports in front of Dwellings/Buildings and is therefore not supported.

CONCLUSION

The proposed development has been assessed against and complies with the relevant provisions of the Residential Design Codes (2008) with exception to DE 6.3.2 – Buildings on the boundary, however it is considered that the proposal complies with the relevant Performance Criteria and LPP 2.4 Boundary Walls in Residential Development.

However, the carport does not meet the provisions of DC6 Garages/Carports in front of Dwellings/Buildings and as such it is recommended that the proposed carport be refused.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That the application be **REFUSED** under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for the Carport Addition to existing Single House at No. 18 (Lot 191) Duffield Avenue, Beaconsfield for the following reasons:

1. The proposal does not meet the provisions of the City of Fremantle's *DC 6 Garages/Carports in front of Dwellings/Buildings* policy.

CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

Cr B Massie requested the item be referred to the Ordinary Meeting of Council.
Seconded by Cr J Wilson.

Cr T Grey-Smith vacated the chamber at 8.46 pm.
Cr T Grey-Smith returned to the meeting at 8.47 pm.
Cr B Massie vacated the chamber at 8.56 pm.

PSC1006-115 KNUTSFORD STREET, NOS 61- 69, (LOTS 500, 501, 1824, 1) – PROPOSED DEMOLITION OF EXISTING BUILDINGS (SS0630/09)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 16 June 2010
Responsible Officer: Manager Development Services
Actioning Officer: Coordinator Planning Mediation
Decision Making Level: Planning Services Committee
Previous Item Number/s: N/A
Attachment 1: Applicant's Heritage Report
Attachment 2: City's Heritage Report
Date Received: 12 November 2009
Owner Name: Fremantle Bond Store Pty Ltd
Submitted by: Michael Willicombe
MRS Scheme: Urban
Heritage Listing: Adopted as part of MHI, no category Listing. On Heritage List under LPS4.
Zoning: Development Zone DA1
Existing Landuse: Warehouse buildings
Use Class: N/A
Use Permissibility: N/A



EXECUTIVE SUMMARY

The application is submitted for determination by the Planning Services Committee (PSC) as the application involves the demolition of buildings that are on the Heritage List of Local Planning Scheme No. 4 (LPS4).

The owners are seeking approval for the demolition of all buildings on Nos 61-69 Knutsford Street and Nos 39-41 Wood Street. Nos. 61-69 Knutsford Street are listed in the Municipal Heritage Inventory (MHI) database, but not 39-41 Wood Street. Whilst this site is included on the MHI, there is no category listing for this site. The MHI record indicates that the site may have some heritage value, however, this required further investigation. The inclusion of the site on the MHI resulted in No. 61-69 Knutsford Street being included on the Heritage List of LPS4.

A heritage assessment was undertaken on behalf of the owner. This report was reviewed by the City and an independent heritage assessment was obtained as required by Local Planning Policy 1.6 – Preparing Heritage Assessments (LPP 1.6). The findings of both reports indicate that the existing buildings have little or no heritage significance. Consequently, having regard to clause 5.15 of LPS4, Council can permit demolition of the buildings.

The consultant engaged by the City has indicated under Section 5 – Statement of Conservation that the minimum conservation outcome should be some good quality interpretation and a form of development that responds to the industrial landscape or the retention of Building 1 (located corner of Amherst street and Knutsford Street) and its conservation and adaption for alternative use. Therefore, to address this issue, it is recommended that an interpretative strategy be submitted for approval by the City.

Having regard to the heritage reports and the provisions of clause 5.15 of LPS4, it is recommended that demolition of the buildings be permitted.

BACKGROUND

An application for planning approval has been received for the demolition of the building on Nos 61-69 Knutsford Street and Nos. 39 and 41 Wood Street – to be referred to in the report as 61-69 Knutsford Street.

DETAILS

The development site contains 4 lots with 6 buildings located on those sites. The construction of the first of the buildings occurred in 1954 and the last in 1964.

The owners are seeking a determination to be made by Council on whether any of the buildings have sufficient heritage value to warrant their retention under LPS4.

Heritage reports for the owner and the City are included as Attachments 1 and 2.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4

Planning approval is required for the demolition of any building under LPS4. A heritage assessment is to be carried out in accordance with LPP 1.6.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4, as the proposed development involved the demolition of a building on the Heritage List contained in LPS4. At the conclusion of the advertising period, being 9 February 2010, the City had received 1 submission from the owner of the land supporting the demolition of the buildings.

PLANNING COMMENT

Amendment 26 was recently gazetted which had the effect of incorporating Clause 5.15 into LPS4. The relevant clause is shown below:

5.15 Demolition of Buildings and Structures

5.15.1 Council will only grant planning approval for the demolition of a building or structure where it is satisfied that the building or structure:

- (a) has limited or no cultural heritage significance, and*
- (b) does not make a significant contribution to the broader cultural heritage significance and character of the locality in which it is located.*

5.15.2 In considering an application under 5.15.1, Council shall have regard to any heritage assessment required under Clause 7.4

The heritage assessment was carried out in accordance with Clause 7.4 of LPS4 and LPP 1.6. which found that the existing buildings had little or no significance.

The City's heritage consultant made the following comments (summarised):

- The whole area has historic value as the story of a secondary transport environment and some interpretation of the story should be part of a development.*
- The buildings have very little value, and the only one worth considering for retention and adaptation is building 1 on the corner of Knutsford and Amherst Streets.*
- While not essential on cultural heritage grounds, there is an opportunity there to do something positive and to make use of a resource.*
- However, applying the terms used in 5.15.1 (a) and (b) apply. Council may consider the demolition of all buildings acceptable.*
- The minimum conservation outcome should be some good quality interpretation and a form of development that responds to the industrial landscape.*
- A good mitigating outcome might be the retention of building one and its conservation and adaption for alternative use (e.g. residential)*

The demolition proposal before Council does not have any proposals for the re-development of the site. As such, it is not possible to consider the proposals presented by the heritage consultant engaged by the City. However, it is recommended that as a condition of approval, and prior to demolition, an interpretive plan for the site be submitted for approval by the City.

Having regard to the above and the provisions of clause 5.15, it is recommended that the demolition of the buildings be permitted.

The heritage reports do not propose that an archaeological dig is required and as such, an archaeological dig is not being proposed as part of this approval.

CONCLUSION

The existing buildings on the subject site have, based on the heritage reports, have little or no significance, and consequently, Council has the discretion to grant approval to demolish the existing buildings. It is recommended that approval be granted for the demolition of the building subject to conditions of approval.

In order to, respond to the options contained in Section 5 Statement of Conservation, it is recommended that an interpretative strategy be submitted for approval by the City.

OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the demolition of the existing buildings on No 61 - 69 Knutsford Street and No 39 - 41 Wood Street (Lots 500, 501, 1824, 1) Fremantle, as detailed on plans dated 12 November 2009, subject to the following conditions:

- (a) This approval relates only to the demolition of the existing buildings as indicated on the approved plans. It does not relate to any other development on this lot.
- (b) Prior to commencement, an archival record is to be made of the buildings to be demolished and submitted to the City of Fremantle for approval, and shall include:
 - i) A site plan prepared at 1:200 scale, floor plan(s) of the building and four elevations prepared at 1:100 scale.
 - ii) Digital photographs taken of the building (once vacated) to include:
 - A) a general/overall photo of the building to be demolished;
 - B) photos of each of the four elevations;
 - C) internal photos of all rooms; and
 - D) photos of any special architectural features.
- (c) The site being stabilised following the demolition of the buildings to address matters of dust and sand drift.
- (d) Prior to demolition of the first building, an Interpretation Strategy for the site shall be submitted for approval by the Chief Executive Office, City of Fremantle.

COMMITTEE DECISION

Cr A Sullivan MOVED to defer the item to the next appropriate PSC to enable consideration of the retention of some or all of building one and the adaptive reuse and/or heritage interpretation of other buildings on site.

CARRIED: 5/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Andrew Sullivan	

Cr B Massie returned to the meeting at 8.58 pm.

REPORTS BY OFFICERS (COUNCIL DECISION)

PSC1006-120 FREMANTLE PARK CONSERVATION MANAGEMENT PLAN - DRAFT REPORT ON RESULTS OF CONSULTATIVE PROCESS

DataWorks Reference:	219/020
Disclosure of Interest:	nil
Previous Item:	n/a
Responsible Officer:	Director Planning and Development Services
Actioning Officer:	Heritage Projects Officer
Decision Making Authority:	Council
Agenda Attachments:	Table - Summary report on submissions

PURPOSE

To report on public comment submissions made on the draft Conservation Management Plan and recommend the resultant amendments to the draft plan, for Council's endorsement.

EXECUTIVE SUMMARY

The Fremantle Park draft Conservation Management Plan (CMP) was released for public comment for a period of 42 days and 7 written submissions were received, addressing a range of issues. The comments recorded at the internal and external stakeholders' consultation meetings have also been included in the summary.

The majority of comments support the draft plan. There were also constructive amendments proposed, as shown in the attached summary table. The officer's recommendations how the comments should be reflected in the final draft of Conservation Management Plan, are shown in the right hand, 'recommendations' column.

Providing Council support the recommended amendments to the draft, the draft Fremantle Park CMP is in order to be finalized by the Consultants and submitted to Council for adoption.

BACKGROUND

In response to the community's actively expressed interest Council has allocated funding in its 2008/09 budget for preparation of Fremantle Park Conservation Management Plan (CMP).

The draft was submitted in October 2009 and underwent internal consultation before being submitted to Planning Services Committee (3rd February 2010) and was released for public Consultation at Council's 24 February Meeting (PSC1002-30 refers) with a condition to extend the period from 35 days to 42 days, given the apparent high community interest.

Consultation was open from 2nd March, 2010 until the 13th April. At the commencement of this period it was advertised in the Herald and major stakeholders were sent a letter of invite to lodge their comments.

During the public consultation period an information meeting was held to offer further explanation of the CMP and the comments flowing from the meeting were included in evaluation of the written submissions received by the closing date of the consultative process.

COMMENT

The City has commissioned Heritage Conservation Professionals as head consultants to prepare the Conservation Management Plan for the park. The consultants' team of experienced heritage experts includes two historians, conservation architect and the landscape architect. The team have completed the draft plan in accordance with the HCWA's guidelines and model conservation plan, incorporating the early expressed requirements and interests of the major stakeholders, mainly Fremantle Society and Bowling and Tennis Clubs.

The draft plan was also consulted internally to make sure the relevant Council's units responsible for separate aspects of the park's use and maintenance are satisfied with the draft plan's recommendations and the internal comments are included in the consultation.

All stakeholders expressed support for the draft CMP. In addition comments received raised a range of associated issues that can be divided into the following three categories:

1. support for a greater heritage recognition for Fremantle Park than recommended by the draft CMP i.e. nomination of the park for both MHI for Fremantle (CMP's recommendations) and the State Heritage Register;
2. strong support for preparation of Fremantle Park Masterplan as the priority follow up step to conservation plan to ensure the recommended conservation measures are incorporated in the overall strategic planning for the park and implemented in the future, including the recommended review of big events' management;
3. expressed aspirations for the initiatives that fall outside the scope of both, conservation and master plans, such as request for Council's commitment to extend strategic considerations to areas outside Fremantle Park such as John Curtin School of Arts, Leisure Centre or Finnerty St carpark. Some comments involved requests for Council to take immediate action beyond the scope of heritage conservation such as operational issues of the sporting clubs located at the park.

The public consultation period is now closed and the comments have been evaluated. The report on community comments is in order for Council to note and endorse. The attached comments table includes the officer's recommendations for relevant amendments that should be reflected in re-drafting of the CMP before it is submitted to Council for further consideration and adoption.

CONCLUSION

Following the release of draft Fremantle Park Conservation Management Plan prepared for Council by Heritage Conservation Professionals, the officers run the internal and external consultative meetings with the interested stakeholders. At the conclusion of the consultation period the City received 7 written submissions, which together with the feedback provided at the meetings provide basis for the recommended re-view and amendment of the draft plan.

The summary of comments and recommendations for the relevant amendments are shown in the Attachment 1 table.

STRATEGIC AND POLICY IMPLICATIONS

Nil

TRIPLE BOTTOM LINE IMPLICATIONS

Economic

Fremantle Park Conservation Management Plan, when adopted by Council, would provide Council's direction for the park's ongoing care and the strategic framework for planning a compatible upgrade of the park and facilities. The heritage recognition and the Council's long term policy commitment to maintaining and upgrading the park as a public reserve provides certainty, thus adds to attractiveness of the area to its current and future residents as well as ensures ongoing viability of the surrounding public and commercial operators and facilities.

Environmental

The item is concerned with environmental protection of Fremantle Park as part of the city's non renewable heritage resources.

Social

There is evidence of strong community attachment to Fremantle Park as a community reserve and sporting place.

BUDGET IMPLICATIONS

Nil

LEGISLATIVE AND LEGAL CONSIDERATIONS

Nil

PRECINCTS AND OTHER COMMITTEES RECOMMENDATIONS PLUS OTHER CONSULTATION

As discussed in the report above and the attached comments summary table.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That Council:

1. note the comments received during the community consultation period;
2. request that consultants review the draft Fremantle Park Conservation Management Plan in accordance with the recommendations of the summary table attached to this report.
3. that the final draft be brought back to Council for further consideration and adoption.

Cr John Dowson MOVED an amendment to condition number three as follows.

3. That the final draft be brought back to Council in August 2010 for further consideration and adoption.

CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

COMMITTEE RECOMMENDATION

That Council:

- 1. note the comments received during the community consultation period;**
- 2. request that consultants review the draft Fremantle Park Conservation Management Plan in accordance with the recommendations of the summary table attached to this report.**
- 3 That the final draft be brought back to Council *in August 2010* for further consideration and adoption.**

CARRIED: 6/0

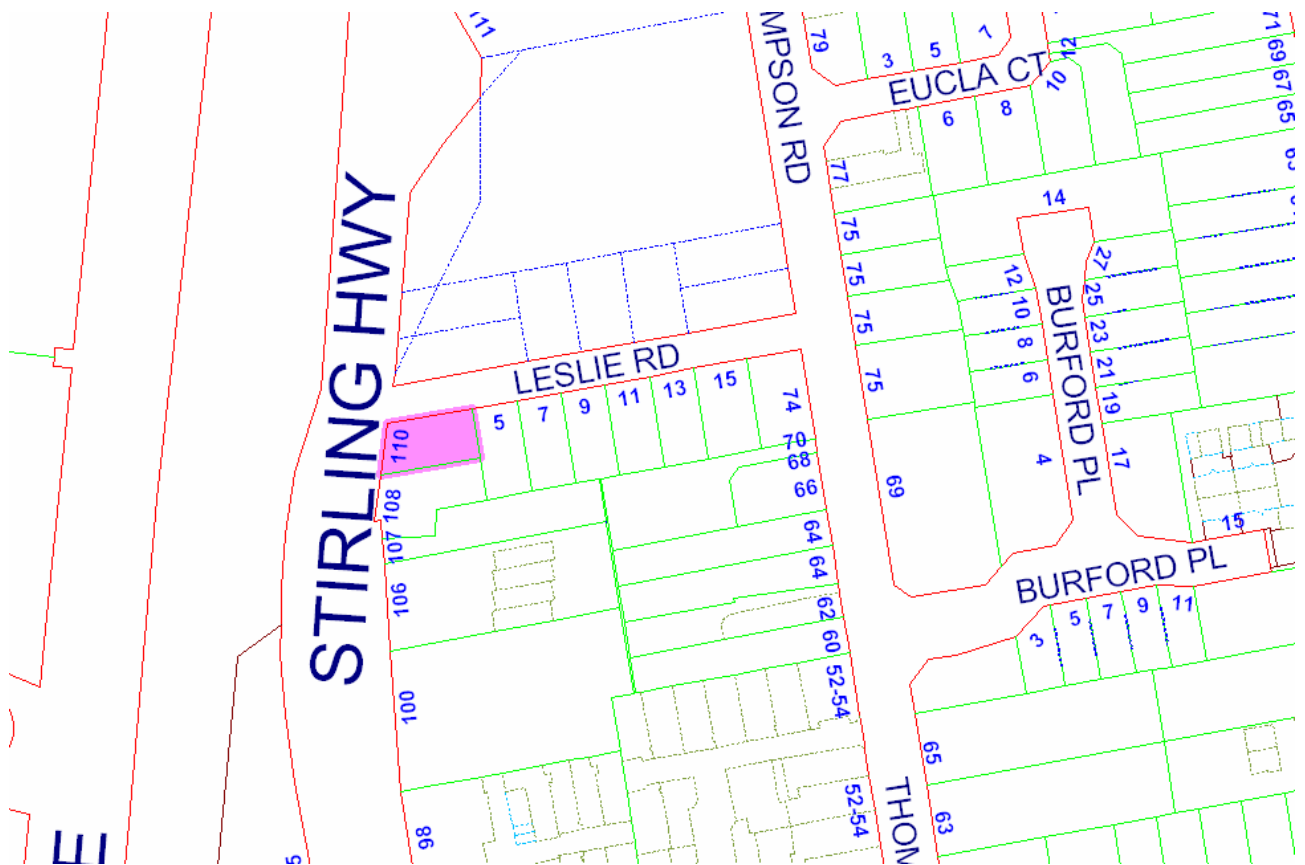
For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

REPORTS BY OFFICERS (COMMITTEE DELEGATION)

Cr R Fittock vacated the chamber at 9.09 pm.
Cr R Fittock returned to the meeting at 9.10 pm.

PSC1006-113 STIRLING HIGHWAY, NO. 110 (LOT 2) NORTH FREMANTLE - PROPOSED COMMERCIAL OFFICE (AH DA0232/10)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Coordinator Statutory Planning
Decision Making Level: Planning Services Committee
Previous Item Number/s: N/A
Attachments: 1. Development plans (3 June 2010)
 2. Applicants Justification
Date Received: 24 July 2009
Owner Name: Cantori Pty Ltd
Submitted by: Stirling Architects
Scheme: Mixed Use – R25
Heritage Listing: North Fremantle Heritage Precinct & Limestone Features - Leslie Road
Use Class: Office
Use Permissibility: P



EXECUTIVE SUMMARY

The application was presented before the Planning Services Committee on the 19 May 2010 whereby the item was deferred to the next appropriate Planning Services Committee meeting without a reason given, therefore the previous assessment is included in this report.

The applicant submitted revised plans, dated 3 June 2010, which show no material change to the layout of the building, however the building has been sited 1.6m closer to the street in order to allow for two additional car parking bays to be located at the rear of the site. This has also resulted in an increase to the upper floor area of approximately 16m².

These plans were to be determined in conjunction with PSC Item – 1003-56 (DA0352/09, No. 5 Leslie Road, North Fremantle – Proposed Office Complex), however they were inadvertently not dealt with as part of that application and as such, are now to be determined independently as a separate application. The consequence of this result is that this application is being accepted with a recommendation that the application fee be waived.

The applicant is proposing to construct a two storey office complex with parking at the ground floor level. The proposed 'Office' Land Use is considered to comply with the objectives of the Mixed Use zone.

The applicant seeks a variation to the height requirements which is considered to comply.

The applicant seeks a relaxation to the required number of car parking bays being provided on-site which is considered inappropriate in this instance.

Accordingly, it is recommended that the application fee be waived, however the application be Refused.

BACKGROUND

The application site is known as No. 110 Stirling Highway, North Fremantle at the intersection of Stirling Highway and Leslie Street. The site has an area of approximately 360m², is orientated in an east-west direction.

The site is zoned Mixed Use under Local Planning Scheme No. 4 (LPS 4), has a density coding of R25 and is located within the North Fremantle Local Planning Area as described in Schedule 12 of LPS 4.

The site is not individually listed on the City's Heritage List but is identified as part of a group of lots that retain a Limestone Feature along Leslie Road. The Limestone Feature is described as a remnant limestone wall to the rear boundary of lots facing Leslie Road between Stirling Highway and Thompson Road, but does not affect this property.

The applicant submitted an application on the 24 July 2009 which included development over No. 5 Leslie Road and No. 110 Stirling Highway. A number of design modifications took place since the submission of the original application which included the submission of separate sets of plans depicting separate development over No. 5 Leslie Road and No. 110 Stirling Highway. The portion of the development over No. 5 Leslie Road was previously Refused by Planning Services Committee on the 17 March 2010.

DETAILS

The application was originally submitted on the 24 July 2009. A number of revised plans have been submitted to the City in order to resolve concerns raised.

On the 5 January 2010 a separate set of plans depicting development over each separate lot was submitted, and only one set for No. 5 Leslie Road was determined by the City.

As such, the City is accepting the separate set of plans for No. 110 Stirling Highway as a separate application to be determined independently of No. 5 Leslie Road and as such it is recommended that the application fee be waived.

The revised plans subject to this application, dated the 3 June 2010, involves development of a two storey Office complex on the corner of Stirling Highway and Leslie Road.

The changes that have occurred between the plans dated 21 May 2010 and 3 June 2010 are as follows:

- Building setback to Stirling Highway, decreased to 5.0m from 6.5m;
- Car-parking bays located within front setback area removed;
- Two additional car parking bays provided at rear of building; and
- Upper floor area increased by approximately 16m² to a total of 269m².

As a result of these changes the required number of car bays remains the same, being nine bays to be provided on site. The number of bays provided has increased to six bays in a tandem arrangement, being a variation of three car bays. The remainder of the development is essentially the same.

The ground floor would comprise:

- Six car bays in tandem arrangement with access from Leslie Road, wholly contained within the lot.
- Building setback 5m from Stirling Highway;
- Ground floor entry to Leslie Road with stair case to upper level;
- Ground floor Office tenancy with windows to north and west; and

The first floor would comprise:

- Entry through staircase to two upper floor Office tenancies with windows to north, west and south;
- Balcony/Terrace facing Leslie Road and Stirling Highway; and
- Kitchenette, amenities and store.

The building would be 7.9m in height with a pitched roof to a height of 10.4m.

The building would be setback 5.0m from Stirling Highway with bicycle racks and landscaping provided in this area. The majority of the building would be setback 2.5m from Leslie Road with a portion having a reduced setback to approximately 1.0m which further reduces to a nil setback for a protruding section.

The building has a nil setback to the southern boundary for a portion of the development where it abuts an existing boundary wall and would be adjacent to a car parking area. A nil setback is proposed to the eastern boundary, however this abuts the adjoining site that is under the same ownership and was subject to a previous decision.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4

Mixed Use Zone

The site is zoned Mixed Use under LPS 4 and an Office is a 'P' Land Use meaning the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.

Car Parking

Table 3 of LPS 4 sets out the following vehicle parking requirements:

Office = 1 Car Parking Bay per 30m² GLA

<u>Proposed GLA</u>	<u>Requires</u>	<u>Provides</u>
269m ²	9 car bays	3 car bays

Clause 5.7.6 - Design and Layout of Parking Areas and Clause 5.7.3 – Relaxation of Parking Requirements both apply to this application and further assessment can be found under the Planning Comment section of this report.

Schedule 12 – Building Height

Local Planning Area 3 (LPA 3) sets out the maximum height controls to be applied within North Fremantle. Within the Mixed Use zone, the maximum wall height is 7.5m. Clause 5.8.1 of LPS 4 allows Council to vary site and development standards and requirements, subject to the development satisfying specific criteria. Further comment can be found in the Planning Comment section.

Council Policies

The property and proposed development does not fall within any Local Planning Policy.

Residential Design Codes of W.A. (2008)

As the application is for an 'Office' the Residential Design Codes of W.A. (R-Codes) are not applicable to the assessment of an 'Office' on this site.

CONSULTATION

Community

The original application submitted on the 24 July 2009 was required to be advertised in accordance with Clause 9.4 of LPS 4 due to proposed variations to the height requirements of LPA 3.

At the conclusion of the advertising period, 4 September 2009, the City had received five submissions which raised the following issues:

- Bulk and scale of development not in keeping with the streetscape.
- The external wall height is greater than the R-Codes.
- The east boundary wall would affect the outlook of the neighbouring property.

- Windows and balcony would overlook the internal courtyard of the neighbouring property.
- Overlooking from large windows facing south. Would be acceptable if frosted or highlight windows.

- Parking arrangement is unappealing with no setback from the street and could cause issues with trucks serving Dingo Flour Mill.
- Parking is shown as three cars behind one another abutting the public footpath. It is highly likely that cars would straddle the footpath.
- The Leslie Road site is open under cover parking. Such sites are well known to attract anti-social behaviour.
- Object to parking dispensations. Do not want overflow parking to result in neighbouring bays being used for this development.

- The Leighton Project required a viewing corridor connecting North Fremantle to the ocean. This building would obstruct the view corridor.
- The heritage wall retention is not appropriate. The cut outs would be structurally unsound.
- There has been no attempt to soften the development with vegetation.

Upon receipt of amended plans on the 5 January 2010, the application was re-advertised to the surrounding land owners. with the City receiving two submissions which reinforced the issues raised above.

Main Roads WA

The original development application was referred to Main Roads WA for comment as the application included development abutting Stirling Highway. Main Roads comment inferred that a 5m setback from the existing street boundary would apply due to a study being conducted for possible future road widening of Stirling Highway.

Western Australian Planning Commission (WAPC)

The original development application was referred to the WAPC for comment as the application included development abutting a Primary Regional Road. The WAPC confirmed advice from Main Roads WA that a 5m building setback from the Stirling Highway alignment was adopted by the WAPC, and as such the development would not comply.

The development has since been revised to include a 5m building setback from the Stirling Highway street alignment and instead proposes to utilise this land for bicycle racks and landscaping.

PLANNING COMMENT

Planning and Development (Local Government Planning Fees) Regulations 2000

Planning fees are imposed in accordance with Regulation 4 and Schedule 1 of the *Planning and Development (Local Government Planning Fees) Regulations 2000*. The prescribed fees are a maximum amount which may be reduced in accordance with regulation 7 or waived or refunded (in whole or part) under regulation 14.

In this instance, these plans were inadvertently not determined as part of the previous application for No. 5 Leslie Road (DA 0352/09) and as such it is considered appropriate to waive the fee in order for a determination to be made on these plans for No. 110 Stirling Highway.

Local Planning Scheme No. 4

Mixed Use Zone

The Office land use is considered to add to the desirable land uses within the Mixed Use zone and as a 'P' Land Use is considered appropriate in providing a range of services within this locality. It is considered that the proposed 'Office' would be sympathetic to the desired future character of the area.

Car Parking

The proposed development requires nine car parking bays to be provided on site, generated from the 269m² of 'Office' gross lettable area.

The applicant has provided six bays, provided at the rear of the site along Leslie Road. All car parking has been provided in a tandem layout with one car behind another.

Clause 5.7.6 – Design and Layout of Parking Areas sets out the required assessment criteria to be applied to proposed parking areas.

The layout and access arrangements have been assessed against the provisions of Australian Standard 2890.1 – Parking Facilities – Part 1: Off-street Car Parking (AS2890.1) and the Australian Standard does not provide design criteria for tandem car bay arrangements. As such it is considered that the allocation of tandem parking is not appropriate as it does not comply with the Australian Standards as set out in clause 5.7.6 (i) of LPS 4.

This results in three of the proposed six bays being non-compliant and as such the applicant is seeking a car parking variation.

Clause 5.7.3 Relaxation of Parking Requirements sets out the assessment criteria to be applied where a reduction in the number of bays provided does not meet the requirements of Table 3 – Vehicle Parking.

In this case the applicant has justified the reduction of parking bays (see Attachment 2) as per clause 5.7.3 of LPS 4 due to the availability of public transport within the locality.

The site is located on Stirling Highway, which is a public transport route for a number of buses servicing Fremantle, and is close to North Fremantle Train Station. However, for the purposes of providing adequate parking bays for both staff and patrons it is considered that the provision of three operable car bays is not appropriate in this instance.

It is considered that whilst the property may be close to public transport facilities, the demand for parking at this property would outweigh the benefit that close proximity to public transport provides and therefore the proposal does not comply with the car parking provisions of LPS 4.

Schedule 12 – Building Height

Local Planning Area 3 – North Fremantle sets out the height requirements to be applied to any development in this area.

Within the Mixed Use zone a building is permitted to be 7.5m in height, as measured from the natural ground level of the site. The applicant has taken the natural ground level of the adjoining site as being RL 10.5 and measured a 7.5m high wall from this point. The applicant has failed to follow the natural ground level of the site, which as indicated on the site survey, shows the level to drop to RL 10 and below.

Furthermore, the wall height of the building where measured from the upper level window facing Stirling Highway, would be 7.9m above the natural ground level at this point.

However, a height variation may be appropriate for this site as determined by clause 5.8.1 – Variation to height requirements.

The site is adjacent to the Allied Flour Mills (Dingo Flour) which depicts a height greater than that specified in schedule 12.

The variation is not considered to be detrimental to the amenity of the adjoining properties or the locality as the height variation is considered relatively minor in that it would be contained to less than a 0.5m variation.

Furthermore, the portion of the building that would be over height, faces Stirling Highway and presents a relatively good street frontage when viewed from the north. Whilst the elevation to the south lacks presence, the building is generally setback in accordance with the adjoining property to the south and as such does not dominate this façade.

The height of the building overall is considered to graduate the scale of buildings of varying heights within the locality. The dwellings along Leslie Road have roof pitches that are approximately 9.4m in height and have boundary walls over 7.3m in height. The adjoining Pharmacy has a single storey with loft appearance. The Leighton Beach development on the opposite side of Stirling Highway would be substantially higher than the proposed Office and the Allied Flours Mills building is also substantially higher than the proposed Office.

The end result would be that the proposed Office building would be a similar height to the existing dwellings in Leslie Road and this is considered acceptable, given the scale of buildings of varying heights in the locality.

For these reasons, it is considered that the proposed 0.4m height variation can be supported as the proposal satisfies the provisions of clause 5.8.1.

Local Planning Policies

LPP 1.2 - Refunding and Waiving/Reducing of Planning and Building Fees

This policy deals with requests to waive planning fees in sections 2 as follows:

2. Waiving of Planning and Building Fees

Planning fees will not be waived under any circumstances except by a resolution of the Council. Building fees will not be waived under any circumstances.

This request deals only with the waiver of planning application fees. When assessing application DA 0352/09, the plans were separated and the proposed development over No. 110 Stirling Highway was not included into the decision made on the 17 March 2010 (Item No. PSC 1003-56) for No. 5 Leslie Road.

As such, the City has processed the set of plans for No. 110 Stirling Highway as a separate application to be determined independently. This raises the issue of the application fees involved with accepting a separate application, and it is considered that the fees be waived so that the plans can be determined without unreasonable burden on the applicant.

Heritage

The property is not individually on the City's Heritage List, however contains Limestone Features as listed as part of Leslie Road. A Heritage assessment was undertaken regarding the Limestone Features and it was found that they do not affect this property and as such do not impact on the proposed development. With regard to clause 7.7.1 it is considered that an Archaeological investigation would not be appropriate as the Heritage Assessment has found that the limestone features are not located on this property.

Response to Submissions

The majority of the concerns raised by the neighbouring property owners involved the development for No. 5 Leslie Road and No. 110 Stirling Highway which proposed an 11m high building.

The proposal has since been revised to reduce the height of the building to 7.9m and as assessed under clause 5.8.1 the height variation is considered acceptable as it has addressed the majority of concerns raised regarding the height of the building.

In this instance the proposal for No. 110 Stirling Highway alone, does not impact on the residential properties to the north as it abuts commercial development to the south and a vacant site to the east.

However, it is noted that the proposed car parking area with allocation of tandem layout would be unsuitable to this site being used as an Office and furthermore the relaxation in the number of car bays is not considered appropriate.

CONCLUSION

This application was deferred from Planning Services Committee on the 19 May 2010 so to allow the applicant to submit revised plans. Revised plans were received by the City on the 3 June 2010 with the following modifications:

- Building setback to Stirling Highway, decreased to 5.0m from 6.5m;
- Car-parking bays located within front setback area removed;
- Two additional car parking bays provided at rear of building; and
- Upper floor area increased by approximately 16m² to a total of 269m².

The applicant is seeking planning approval for an Office Complex at No. 110 Stirling Highway, North Fremantle. These plans were to be determined in accordance with PSC Item 1003-56 (DA0352/09, No. 5 Leslie Road, North Fremantle – Proposed Office Complex), however these plans were inadvertently not dealt with as part of that application.

As such, the City is accepting these plans as a new development application, and it is considered that the application fee be waived.

The proposed 'Office' Land Use complies with the objectives of the Mixed Use zone however is proposing the following variations:

- Height variation of 0.4m; and
- Relaxation of three car-parking bays.

The height variation is considered to satisfy clause 5.8.1 – Variation to height requirements however, the car-parking design and layout is considered unsuitable for commercial parking and furthermore a parking relaxation for a commercial development in this location is not considered to satisfy clause 5.7.3 – Relaxation of parking requirements.

Therefore, it is recommended that the application fee be waived and that the application be refused due to the proposal not providing adequate number of car parking bays to satisfy the provisions of Local Planning Scheme No. 4.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

- A) That Council APPROVE the request to waive the planning application fee for a development application at No. 110 (Lot 2) Stirling Highway, North Fremantle.**
- B) That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Proposed Office Complex, at No. 110 (Lot 2) Stirling Highway, North Fremantle, as depicted on plans dated 3 June 2010, due to the following reasons:**
 - 1. The car parking and vehicle access areas shown on the site plan do not comply with Clause 5.7.1 of the City of Fremantle Local Planning Scheme No. 4.**
 - 2. The provisions of car parking bays does not comply with Table 3 of Local Planning Scheme No. 4.**

CARRIED: 4/2

For	Against
Cr John Dowson Cr Josh Wilson Cr Tim Grey-Smith Cr Andrew Sullivan	Cr Robert Fittock Cr Bill Massie

The above item is referred to the Ordinary Meeting of Council for determination in accordance with 1.1 or 2.1 of the City of Fremantle Delegated Authority Register which requires that at least 5 members of the committee vote in favour of the Committee Recommendation in order to exercise its delegation.

EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee (the Committee) due to the number of proposed variations regarding the development.

The Committee is requested to consider an application for the demolition of the existing Single House and construction of two, two storey grouped dwellings at No. 28 (Lot 5) Seaview Street, Beaconsfield.

The proposal requires performance based assessments for variations from the 'Acceptable Development' requirements of the Residential Design Codes in relation to the following:

- Garage doors occupying frontage;
- External wall height for the side (southern and northern elevations) and rear (eastern elevation) of the dwelling; and
- Overshadowing of southern adjoining property

The above variations are considered to meet the relevant 'Performance Criteria' with the exception of the external wall height and overshadowing variations.

Accordingly, it is recommended that the application be approved subject to appropriate conditions.

BACKGROUND

The subject site at No. 28 Seaview Street, Beaconsfield is zoned Residential under the provisions of the City of Fremantle's Local Planning Scheme 4 (LPS4) with a density coding of R25 and is located within the South Fremantle Local Planning Area 4 (LPA 4) as described in Schedule 12 of LPS4. The property is not individually listed on the City's Heritage List or Municipal Heritage Inventory (MHI), however it is located within the South Fremantle Heritage Precinct which is a prescribed Heritage Area under Clause 7.2 of LPS4.

The subject site is 746m² and is located on the eastern side of Seaview Street, Beaconsfield. The site has an east-west orientation and slopes down from the front to the rear by approximately 2.50 metres. The site is currently improved by a single storey brick and tile Single House that is setback approximately 9m from Seaview Street. Additionally, there presently exists a galvanised iron and shade cloth constructed shed at the rear of the site, whilst vehicular access is currently achieved via a bitumen driveway along the site's southern boundary.

An investigation into the property file found the following relevant planning background:

- 26th May 2009, an application for a two (2) lot survey strata subdivision of No. 28 Seaview Street, Beaconsfield was referred to the City by the Western Australian Planning Commission (WAPC) for comment (refer DA241/09);

- 3rd June 2009, the City referred the two (2) lot survey strata subdivision to the WAPC advising that they would not support it until such time that the applicant has obtained Planning Approval for the demolition of the existing Single House on the site. Notwithstanding, the City also referred a number of conditions should the WAPC choose to approve the subdivision (refer DA241/09); and
- 29th June 2009, the WAPC granted conditional approval for a two (2) lot survey strata subdivision of No. 28 Seaview Street, Beaconsfield (refer DA241/09).

DETAIL

On 21 December 2009 the City received a development application seeking Planning Approval for demolition of the existing single storey Single House and construction of two, two storey Grouped Dwellings at No. 28 Seaview Street, Beaconsfield. On 10 May 2010, the City received revised development plans for this development application in response to the issues raised as a result of the community consultation period.

The proposed development consists of the following:

- Demolition of the existing single storey brick and tile Single House, which will facilitate the approved two-lot survey strata subdivision of the site as well as the construction of two, two storey Grouped Dwellings;
- One of the proposed Grouped Dwellings is to be constructed on the northern lot of the approved subdivision (Lot 1), and the other is to be constructed on the southern lot (Lot 2);
- Both of the Grouped Dwellings include the following:
 - Ground floor – double garage, store room, laundry, toilet, open plan kitchen, living and dining area which adjoins an outdoor undercover alfresco area; and
 - Upper/first floor – master bedroom and ensuite, three (3) bedrooms, bathroom, sitting room and hallway.

The revised development plans received by the City dated 10 May 2010 are the subject of this assessment and can be viewed in 'Attachment 1' of this report.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4 (LPS4)

Grouped Dwelling developments such as that which is subject of this application are 'D' uses within 'Residential' zones under LPS4, which:

Means that the use is not permitted unless the Council has exercised its discretion by granting planning approval.

The subject site is located within the South Fremantle Local Planning Area 4 (LPA 4) as described in Schedule 12 of LPS4. The building height requirements for the Residential zone are as per the Residential Design Codes.

Residential Design Codes 2008 (R-Codes)

The proposed development has been assessed against and complies with the relevant 'Acceptable Development' requirements of the R-Codes for properties coded R25, with the exception of the following Design Elements (DE):

- DE 6.2.8 – Garage doors;
- DE 6.7.1 – Building height; and
- DE 6.9.1 – Solar access for adjoining sites.

It should be noted that not meeting any 'Acceptable Development' criteria, in and of itself, is not a sound basis on which to refuse or require modifications to a proposal. Instead, the proposal must be considered in the context of the relevant 'Performance Criteria'. Further assessment regarding the above variations will be included in the Planning Comment section of this report.

Local Planning Policies

The application was also assessed against the following relevant Council Planning Policies:

- DBH1 – Urban Design and Streetscape Guidelines;
- LPP1.6 – Preparing Heritage Assessments; and
- LPP2.1 – External Storage Areas for Grouped and Multiple Dwellings.

LPP1.6 is to be included in the Consultation: Heritage section of this report, whilst LPP2.1 will be included in the Planning Comment section of this report.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4 and the City's *LPP1.3 Public Notification of Planning Proposals* (LPP1.3) policy, as the development proposed a number of variations. At the conclusion of the advertising period, being 8 February 2010, the City had received one (1) submission; of which objected to the proposal. The objections raised are as follows (summarised):

- *Insufficient information*

The application does not contain, or at least they did not see, elements of the site plan required under Part 3 – Accompanying information of the Residential Design Codes (R-Codes):

3.4.1d Photographs or drawings of the street elevations of any existing buildings on site and on adjoining sites, showing height, roof and wall materials, windows and roof pitches.

Had this information been provided it would depict the extent of overshadowing created by the proposed development upon No. 30A Seaview Street along the total length of the existing home, including its outdoor living area, verandah as well as major openings to its habitable rooms.

- Boundary setbacks

The proposed development does not comply with Design Element 6.3.1 Buildings setback from the boundary of the R-Codes.

- Building height

The proposed development does not comply with Design Element 6.7.1 Building height of the R-Codes.

- Design for climate

The proposed development does not comply with Design Element 6.9.1 Solar access for adjoining sites of the R-Codes and requests the City to examine the calculation of overshadowing of No. 30A Seaview Street as they do not believe the 23% overshadowing depicted by the plans to be accurate.

- Proposal will impact on approved subdivision at No. 30 Seaview Street

The proposed development will be detrimental to the steps taken in designing subdivision of the adjoining southern property which had an emphasis on preserving and protecting the amenity of the existing dwelling at No. 30A Seaview Street. Specifically, measures were taken in the subdivision design that took into account prevailing winds, cooling breezes and the northern aspect of the site.

- Recent development in Seaview Street

Due to the similarities of the proposal to a recent development at No's. 26 & 26A Seaview Street, the proposal will be detrimental to and inconsistent with the predominant streetscape pattern.

- Future development at No's. 30 & 30A Seaview Street

The proposed development will adversely impact the proposed future development plans at No's 30 & 30A Seaview Street, of which are to designed with an emphasis upon sustainability.

Heritage

The application required a Heritage Assessment to be prepared in accordance with the City's LPP1.6 – *Preparing Heritage Assessments* (LPP1.6) policy. The City's Heritage Planner prepared a Heritage Assessment (refer to 'Attachment 2')

Overall, the Heritage Assessment concluded that demolition of the existing dwelling was supported on heritage grounds as the existing place was not considered to contribute to the streetscape and the place itself had no heritage significance.

PLANNING COMMENT

In considering this application, there are three issues that must be addressed, two of which represent the key issues pertinent to determining this application. The two key issues are in relation to the proposed maximum external wall height of the dwellings and the overshadowing impacts created by the development on the southern adjoining property. These variations should be considered against the relevant 'Performance Criteria', as outlined in the Statutory and Policy Assessment section of this report.

Residential Design Codes (R-Codes)

6.2.8 – Garage Doors

Garage structure occupying frontage at setback line as viewed from the street						
Proposed Grouped Dwelling	Frontage	Max. Allowable		Proposed		Complies
No. 28 (Lot 1) Seaview Street	8.67m	60%	5.20m	75.80%	6.64m	No
No. 28 (Lot 2) Seaview Street	8.67m	60%	5.20m	69.20%	6.00m	No

Both of the two dwellings do not meet the 'Acceptable Development' standards, and as such the application should be assessed against the relevant 'Performance Criteria' of the R-Codes, which states:

P8 The extent of frontage and building façade occupied by garages assessed against the need to maintain a desired streetscape not dominated by garage doors.

It is noted that the site slopes downwards by approximately 0.8m over a distance of approximately 9.4m from the front (street) boundary to the building line of the garages on both Lot's 1 and 2. It is considered that any dominating effect that either of the garages (particularly their doors) may present is ameliorated due to the topography of the site. Further, it may be considered unreasonable for the proposed grouped dwelling development to satisfy the 'Acceptable Development' provisions in this instance given that both Lot's 1 and 2 have been approved by the Western Australian Planning Commission (WAPC) with relatively constrained frontages (both are 8.67m). In addition, the R-Codes require a minimum of two (2) car parking bays per dwelling. It is quite common for this requirement to be addressed through the integration of a double garage in the majority of new residential developments in Western Australia, a measure which could also be viewed as enhancing security of the dwelling itself. Garage doors alone can typically measure between 5.2m and 5.6m, not including the supporting structure of the garage.

To accommodate a double garage within a two storey dwelling on a lot with a width of 8.67m which would meet the 'Acceptable Development' standards of this Design Element, the double garage door alone could not exceed 5.2m (60% of frontage). The ability of either of the two proposed Grouped Dwellings to meet the 'Acceptable Development' standards of this Design Element is therefore inherently at a disadvantage if it is to provide the safety and security associated with double garages. Due to the development constraints imposed by the narrow width (and frontage) of both lots, it is considered that the extent of the building façade occupied by the respective garages of both Grouped Dwellings does not dominate the streetscape, and is assisted by the nature of the sloping topography of the site.

Both of the proposed grouped dwellings have their respective garage structures located on the ground floor and within 1m of the building. Both garage structures of the two grouped dwellings have an upper floor which extends for the full width of their respective garages. The upper floors serve to ameliorate the perceived bulk of the garage doors on the lower floor therefore softening the dominance of the doors.

Therefore it is considered that the proposed variation for the garage doors should be supported as it is considered to meet the relevant 'Performance Criteria' of the R-Codes.

6.7.1 – Building height

External wall height of proposed Grouped Dwellings at No. 28 (Lots 1 & 2) Seaview Street, Beaconsfield						
Proposed Grouped Dwelling	External Wall Height					
	Elevation	Max. Allowable	Proposed	Variation	Length of Wall >6.0m in Height	Complies
No. 28 (Lot 1) Seaview Street	Northern	6.0m	6.2m	+ 0.2m	4.1m	No
	Eastern	6.0m	6.2m	+ 0.2m	7.0m	No
No. 28 (Lot 2) Seaview Street	Southern	6.0m	6.2m	+ 0.2m	3.7m	No
	Eastern	6.0m	6.2m	+ 0.2m	7.0m	No

As highlighted by the table above, the external wall height of the proposed Grouped Dwellings at No. 28 (Lots 1 & 2) Seaview Street, Beaconsfield does not meet the 'Acceptable Development' standards. It is noted however, that the roof ridge height of the proposed Grouped Dwellings, being 8.75m, meets the 'Acceptable Development' standards which specify a maximum height of 9.0m. Therefore, the application should be assessed against the relevant 'Performance Criteria' of the R-Codes, which states:

P1 Building height consistent with the desired height of buildings in the locality, and to recognise the need to protect the amenities of adjoining properties, including, where appropriate:

- *adequate direct sun to buildings and appurtenant open spaces;*
- *adequate daylight to major openings to habitable rooms; and*
- *access to views of significance.*

Schedule 12 of LPS4 requires residential development within the South Fremantle Local Planning Area 4 (LPA 4) to comply with the building height requirements of the R-Codes. Therefore it is considered that the desired height for buildings within the locality is the height requirements specified in the R-Codes. The Heritage Assessment has identified the Seaview Street streetscape (and locality) as comprising of *“some original single storey houses... between South Street and Martha Street”* and *“the section of Seaview Street between Martha and Douro comprises primarily of single storey houses and duplexes... with recent two storey development”* on the north side of No. 28 Seaview Street. Whilst there may be a predominance of single storey development within the locality, the ‘Performance Criteria’ explicitly refer to the ‘desired height of buildings in the locality’, which is clearly distinguishable from that of the existing height of buildings. With this in mind, the relationship between subdivision (and infill) of properties and subsequent development is an important consideration when contemplating the term ‘desired’.

As mentioned earlier, 29th June 2009 the WAPC granted conditional approval for a two (2) lot survey strata subdivision of No. 28 Seaview Street, Beaconsfield (refer DA241/09). The conditionally approved subdivision is to create two distinctly long and narrow side-by-side east-west orientated lots. By endorsing this subdivision, the WAPC, as the determining authority for approving subdivisions, has inherently predicated a particular type of development is likely to eventuate. Due to the narrow width of the endorsed subdivided lots, residential development will ultimately be restricted by the barriers and limitations imposed by the lot characteristics. In this instance, a two storey dwelling represents an appropriate design solution based on the lot design and characteristics, as opposed to that of a single storey dwelling. To achieve a residential dwelling with the same floor area as that proposed by the two grouped dwellings, a single storey dwelling would require a significantly larger building footprint. Based on the characteristics and area of both lots, single storey grouped dwellings with the same floor area as that proposed would encounter difficulties in meeting boundary setback and open space requirements amongst others. Given that two storey developments are best suited for these lots, external wall height will be significantly more prominent than that of single storey development. Further, both of the proposed two storey grouped dwellings comply with the ‘Acceptable Development’ standards relating to boundary setbacks.

As depicted in the table above, the extent of the variation to the external wall height is shown in the context of the length of the wall where it exceeds 6.0m in height on each elevation. It is considered that the external wall height variation results from the topographical characteristics, whereby both lots slope downwards by 2.5m from the street to the rear boundaries. The external wall height variation for the proposed grouped dwelling at Lot 1 will not impact the amenity of the neighbouring northern and eastern adjoining properties by way of overshadowing and given that no submissions were received by either respective neighbour, the variation is considered to meet the ‘Performance Criteria’.

Notwithstanding, the external wall height variation for the proposed grouped dwelling at Lot 2 requires greater consideration as it will affect the eastern, and more importantly, southern adjoining properties. Similar to that of the proposed dwelling on Lot 1, the external wall height variation for the proposed dwelling on Lot 2 will not impact the amenity of the neighbouring eastern adjoining property by way of overshadowing and given that no submission was received by the neighbour, the variation is considered to meet the 'Performance Criteria'. However, as mentioned earlier the neighbour at the southern adjoining property objected to the proposal, specifically with regards to building height and overshadowing.

In terms of the impacts upon the amenity of the southern adjoining property, overshadowing represents the key consideration which must be addressed as it is not considered that the variation to the external wall height will impact upon any views of significance. Building bulk should also be considered as this constitutes an element of amenity. The extent of the variation to the external wall height for the southern elevation of the proposed dwelling on Lot 2 is 3.7m in length. Given that the external wall height variation is 0.2m, in terms of building bulk it has been calculated as adding 0.37m² which is not considered a significant impact by way of building bulk. In terms of overshadowing, which is discussed in greater detail during the following performance based assessment, it is considered that even if the proposed dwelling on Lot 2 met the 'Acceptable Development' standards in terms of building height (ie did not exceed 6.0m), there would be no change to the overshadowing (as proposed) of the adjoining southern property. The point at which the external wall height variation starts (and would have any affect on the adjoining southern property) is 26.7m east of the front boundary. The adjoining southern property has a northern boundary length of 26.2m from the street, and as such is not directly affected through the external wall height variation by way of overshadowing. This is because the external wall height variation does not actually begin until it is past (east of) the northern lot boundary of the southern adjoining property meaning that any residual affects would impact the property to the rear, being No. 30 (Lot 2) Seaview Street. It is noted that No. 30 (Lot 2) Seaview Street is currently vacant, and comfortably meets the 'Acceptable Development' standards for overshadowing.

For the reasons outlined above, it is considered that the proposed variation to the external wall height of the southern elevation of the proposed Grouped Dwelling contained within Lot 2 should be supported as it is considered to meet the relevant 'Performance Criteria' of the R-Codes.

6.9.1 – Solar access for adjoining sites

Shadow cast by proposed dwelling at No. 28 (Lot 2) Seaview Street, Beaconsfield							
Property to be Overshadowed			Shadow Cast at Midday 21 June				
Property Address	Lot Area	R-Code	Max. Allowable		Proposed		Complies
No. 30A (Lot 1) Seaview Street	365m ² *	R25	25%	91.25m ²	28.22%	103m ²	No
No. 30 (Lot 2) Seaview Street	382m ² *	R25	25%	95.5m ²	13.13%	50.16m ²	Yes

* Lot areas inclusive of equal share of common property area (40m²)

As highlighted by the table above, the proposed dwelling on Lot 2 meets the 'Acceptable Development' standards for overshadowing with respect to No. 30 (Lot 2) Seaview Street; however it does not meet the 'Acceptable Development' standards for overshadowing with respect to No. 30A (Lot 1) Seaview Street as it exceeds the maximum allowable amount by 11.75m² (3.22%). Therefore, the application should be assessed against the relevant 'Performance Criteria' of the R-Codes, which states:

P1 Development designed to protect solar access for neighbouring properties taking account the potential to overshadow:

- *outdoor living areas;*
- *major openings to habitable rooms;*
- *solar collectors; or*
- *balconies or verandahs.*

As mentioned earlier, the type and nature of the residential development that can occur on both Lots 1 and 2 is inherently constrained by their narrow width, with two storey dwellings representing an appropriate design solution in order to achieve a floor area comparable to that of a single storey dwelling. In addition, both of the proposed Grouped Dwellings comply with the 'Acceptable Development' standards relating to boundary setbacks – which have the protection of neighbouring properties by way of overshadowing as one of its stated objectives. As such, it is considered that the development is designed in a way which it can best protect solar access for the adjoining southern properties given the restrictions and limitations presented by the dimensional and topographical characteristics of both lots.

In considering this performance based assessment, Council should consider the following excerpt from the R-Codes Explanatory Guidelines, given its relevancy to this particular variation:

"It is clear that sites most vulnerable to overshadowing are narrow east-west orientated sites, on the south side of a development site, especially if they are also lower or on a south-facing slope. In such cases, even a relatively low building may cast mid-winter shadow over a greater proportion of the site than allowed under acceptable development provision 6.9.1 of the codes.

In other cases a shadow cast by a proposed building may exceed the allowable limits in theory, but in practice may simply be casting a shadow on to a boundary wall or roof or both, with minimal adverse effect.

A shadow may not exceed the limit but may fall over the only available outdoor living area, or living room window of an adjoining house."

Further, as mentioned above the external wall height variation does not directly impact No. 30A (Lot 1) Seaview Street as it complies with 'Acceptable Development' standards (maximum 6.0m) for the length of the boundary which is parallel to (faces) the proposed Grouped Dwelling as contained within Lot 2. Therefore, building height alone cannot be considered as a contributory factor to the overshadowing variation which impacts No. 30A (Lot 1) Seaview Street given that this property is neither directly nor adversely affected by that variation.

If the proposed dwelling on Lot 2 reduced its overshadowing of the adjoining southern property, being No. 30A (Lot 1) Seaview Street by 11.75m² (3.22%) (from 28.22% to 25%) it would meet the 'Acceptable Development' standards, even though it would still overshadow its existing outdoor living area and major openings to habitable rooms. This is due in part; to the location of the existing outdoor living area in the north-eastern corner of No. 30A (Lot 1) Seaview Street, an area which would still be significantly affected, in terms of overshadowing, by a single storey dwelling which is compliant with boundary setbacks and external wall heights. It is noted that any habitable rooms with major openings which would be affected by the shadow cast by the proposal are located in the rear portion of the existing dwelling and behind the covered carport area which is not considered a habitable room and as such not affected by the overshadowing. Given that the proposed dwelling on Lot 2 complies with boundary setback requirements and external wall height (for the extent it faces/ fronts No. 30A (Lot 1) Seaview Street), it is considered that it would be unreasonable to require the applicant to amend the development plans for those Design Elements which have already been deemed to comply with the 'Acceptable Development' standards. Further, the proposed upper floor of the Grouped Dwelling as contained within Lot 2 incorporates a recessed area that assists in providing direct access to sunlight for the adjoining outdoor living area on the adjoining southern property being No. 30A (Lot 1) Seaview Street.

Therefore, Council should consider that this particular overshadowing issue is not limited to this particular application rather the problem itself would still exist even if the development met the 'Acceptable Development' provisions of the R-Codes in relation to overshadowing. For the reasons outlined above, it is considered that the proposed variation to the solar access for adjoining sites of the proposed Grouped Dwelling contained within Lot 2 should be supported as it is considered to meet the relevant 'Performance Criteria' of the R-Codes.

Local Planning Policies

DBH1 – Urban Design and Streetscape Guidelines

The objective of this policy is to conserve and enhance areas of architectural or historic character whilst encouraging harmonious development with the existing authentic character and appearance of the traditional residential areas of Fremantle. The policy also ensures that alterations and additions to existing buildings of historic, cultural and/or of streetscape value respect the character and integrity of those buildings through assessment criteria for new infill residential development and alterations/additions to existing residences.

The proposed development is considered to meet the general principles of this policy relating to infill development, specifically in terms of its building alignment, orientation and front setback. However, there a number of contentious areas including scale and mass which are discussed below.

Scale

The proposed two storey Grouped Dwelling development is consistent with the great majority of traditional residential areas of Fremantle, which consist of single and two storey residential dwellings.

Mass

As mentioned earlier, the subject site slopes downwards by approximately 0.8m over a distance of approximately 9.4m from the front (street) boundary to the building line of the of the proposed Grouped Dwellings on both Lot's 1 & 2. This in itself is considered to ameliorate any perceived building mass or bulk - especially as viewed from the street. Further, the proposed two storey Grouped Dwelling development is similar in nature to that of the recent development at No's. 26 & 26A Seaview Street to the north of the subject site, and as such is consider to blend with, as opposed to dominate the existing space even though the predominant form of residential development in Seaview Street is limited to single storey construction.

Submissions

The concerns outlined within the submissions not addressed above are assessed below.

Proposal will impact on subdivision of adjoining lot

The proposed development will not significantly impact the southern adjoining property by way of affecting its accessibility to prevailing winds. In Perth, these prevailing winds predominantly come from the south-west and given that the proposed Grouped Dwelling development is to the north of the subdivided property at No. 30 Seaview Street, it will not significantly affect No. 30 Seaview Streets accessibility to such winds.

Recent development in Seaview Street

Whilst it is acknowledged that the proposed development is similar in nature to that of the recent development at No's. 26 & 26A Seaview Street, there is not considered to be a predominant existing streetscape pattern given the mix of housing types and designs along it. The Heritage Assessment has identified the existing streetscape of Seaview Street as comprising of "*some original single storey houses... between South Street and Martha Street*" and "*the section of Seaview Street between Martha and Douro comprises primarily of single storey houses and duplexes... with recent two storey development*" on the north side of No. 28 Seaview Street. Furthermore, the Heritage Assessment goes on to state that "*the streetscape does not comprise of houses with heritage values and there is recent development within the near vicinity.*"

Further, the proposed Grouped Dwellings meet the relevant 'Acceptable Development' standards for the streetscape requirements of the R-Codes with the exception of DE 6.2.8 – Garage doors. As discussed above, both of the proposed Grouped Dwellings are considered to satisfy the relevant 'Performance Criteria' of DE 6.2.8 – Garage doors. As such, it is considered that the proposed Grouped Dwelling development will not be detrimental to the streetscape of Seaview Street.

Future development at No's. 30 & 30A Seaview Street

Whilst the owners of No's. 30 & 30A Seaview Street have expressed their intention and desire to construct a dwelling designed with an emphasis on sustainability at No. 30 Seaview Street, granted that the City has not received application for such a proposal, there is no guarantee that it will ever be constructed. As such, it is not considered reasonable in this instance, to consider this as a valid concern for this proposed development at No. 28 Seaview Street, subject of this application. Furthermore, overshadowing of No. 30 Seaview Street created by the proposed development at No. 28 Seaview Street will be 50.16m² (13.13%) of the site, meeting the 'Acceptable Development' standards of the R-Codes which allows for up to 95.5m² (25%) of overshadowing of No. 30 Seaview Street.

CONCLUSION

Based upon the above assessment it is considered that the proposed development adheres to the majority of the relevant R-Codes 'Acceptable Development' provisions. Where the proposed development does not meet the 'Acceptable Development' criteria, it has been outlined above that it is considered to satisfy the 'Performance Criteria'.

Consequently, the application is recommended for approval, subject to appropriate conditions.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr R Fittock

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Demolition of Existing Single House and Construction of Two, Two Storey Grouped Dwellings at No. 28 (Lot 5) Seaview Street, Beaconsfield, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans dated 10 May 2010. It does not relate to any other development on this lot.
2. All storm water discharge shall be contained and disposed of on-site.
3. Prior to the occupation of the development, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.
4. Prior to occupation, the boundary wall located on the northern boundary of the dwelling as contained within Lot 1 (northern lot) shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer, City of Fremantle.

CARRIED: 3/2

For	Against
Cr Robert Fittock Cr Bill Massie Cr Tim Grey-Smith	Cr John Dowson Cr Josh Wilson

The above item is referred to the Ordinary Meeting of Council for determination in accordance with 1.1 or 2.1 of the City of Fremantle Delegated Authority Register which requires that at least 5 members of the committee vote in favour of the Committee Recommendation in order to exercise its delegation.

Cr A Sullivan returned to the meeting at 9.17 pm and assumed the chair.

PSC1006-116 SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

Acting under authority delegated by the Council the Manager Development Services determined, in some cases subject to conditions, each of the applications listed in the Attachments and relating to the places and proposal listed.

OFFICER'S RECOMMENDATION/COUNCIL DECISION

MOVED: Cr A Sullivan

That the information is noted.

CARRIED: 6/0

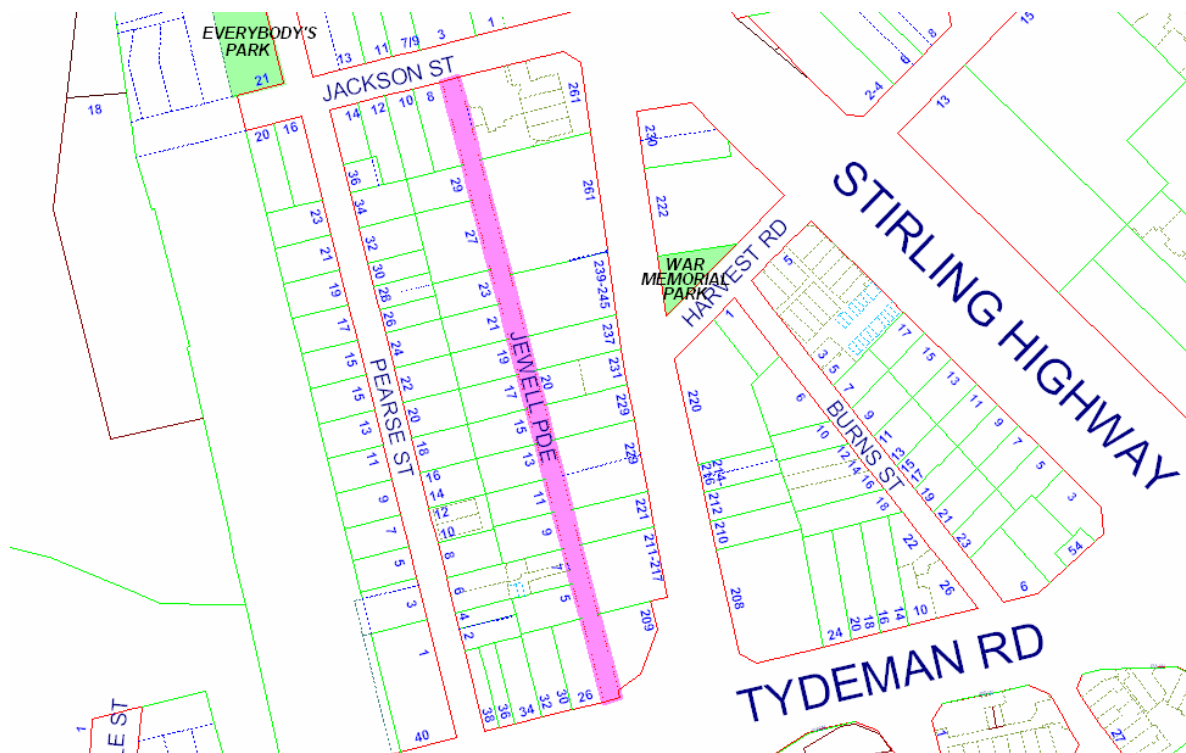
For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

REPORTS BY OFFICERS (COUNCIL DECISION)

Cr A Sullivan MOVED en bloc recommendations numbered PSC1006-117, PSC1006-118, PSC1006-120, PSC1006-121, PSC1006-122, PSC1006-123, PSC1006-124.

PSC1006-117 PROPOSED DEDICATION AS PUBLIC ROAD - WHOLE OF JEWEL PARADE, NORTH FREMANTLE (KSW)

DataWorks Reference: 049/001
Disclosure of Interest: Nil
Meeting Date: Council
Responsible Officer: Manager Development Services
Actioning Officer: Land Administrator
Decision Making Level: Council
Previous Item Number/s: Nil
Attachments: Nil



EXECUTIVE SUMMARY

The Department of Regional Development and Lands State Land Services, has requested Council's agreement to the proposed dedication (as public road) of the private road shown on the map (Dataworks reference No. 1343469).

The subject land (whole of Jewel Parade) is currently held in freehold ownership and described as road on the associated plans. The proposed dedication will formalise the land as public road and enable the enforcement of appropriate traffic legislation.

It is recommended that Council advise State land Services of its agreement to the proposed dedication of the subject land held in Certificate of Title Volume 59 Folio 162 as public road.

BACKGROUND

The subject land (whole of Jewel Parade) has been available to members of the public for uninterrupted use for a period in excess of the ten years required by s56(1)(c) of the *Land Administration Act 1997* ("Act").

PRIVATE ROAD LAND DETAILS

The subject land consists of a portion of road:

The whole of Jewel Parade, North Fremantle held in Certificate of Title Volume 59 Folio 162 being Lot 100 on Plan 768 with only the portion of road coloured brown remaining. The Title is in the ownership of Frederick Mason having been transferred on 22 June 1894.

STATUTORY REQUIREMENTS

The proposed dedication of the land is pursuant of Section 56 (1) (c) of the Act which states that "*land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years*".

COMMENTS

The subject land provides access to the adjoining properties and is utilised as through road linking the public roadways of Jackson Street and Tydeman Road, North Fremantle.

The City's records show that the subject land has been continuously maintained by the City and utilised by the public for at least 30 years. The private road has an appearance and standard that is consistent with other public roads within the City and there is no objection to the dedication as proposed.

The private road has infrastructure located within the subject areas including gas lines, overhead power lines, drainage and sewer lines. The dedication of the private road to a public road will provide the associated Public Utility Services with legal and unrestricted access to maintain their respective assets.

CONCLUSION

The City's records show that the subject private road is currently maintained by the City and is considered being in an acceptable order to approve the proposed dedication as a public road. The private road meets the requirements of s56(1)(c) of the Act in that the public has had in excess of 10 year's uninterrupted use of the private road.

The proposed dedication will formalise the land as a public road and ensure that appropriate traffic legislation can be enforced. As the roads are currently maintained by the City of Fremantle, the formalisation as public roadway will not result in increased costs to the City's budget.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That Council:

- 1. SUPPORTS State Land Services proposed Dedication of a parcel of privately owned road (known as Jewel Parade) as described on Certificate of Title volume 59 Folio 162 being lot 100 on Plan 768, as a public road.**
- 2. ADVISE State Land Services in writing of Council's resolution pursuant to Section 56 (1)(c) of the *Land Administration Act 1997*.**

CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

The following item number PSC1006-118 was moved and carried en bloc.

PSC1006-118 GILBERT FRASER RESERVE CONSERVATION MANAGEMENT PLAN - REPORT ON RESULTS OF CONSULTATIVE PROCESS, COUNCIL ITEM

DataWorks Reference: 219/020
Disclosure of Interest: nil
Previous Item: n/a
Responsible Officer: Director Planning and Development Services
Actioning Officer: Heritage Projects Officer
Decision Making Authority: Council
Agenda Attachments: Summary report of submission responses

PURPOSE

To report on public comment submissions made on the draft Conservation Management Plan and recommend the resultant amendments to the draft plan, for Council's endorsement.

EXECUTIVE SUMMARY

The Gilbert Fraser Reserve draft Conservation Management Plan (CMP) was released for public comment for a period of 42 days and 3 written submissions were received, addressing a range of issues. The comments recorded at the internal and external stakeholders' consultation meetings have also been included in the summary.

The majority of comments support the draft plan. There were also constructive amendments proposed, as shown in the attached summary table. The officer's recommendations how the comments should be reflected in the final draft of Conservation Management Plan, are shown in the right hand, 'recommendations' column.

Providing Council support the recommended amendments to the draft, the draft Gilbert Fraser Reserve CMP is in order to be finalized by the Consultants and submitted to Council for adoption.

BACKGROUND

In response to the rapidly degrading heritage asset of the grandstand and in response to community's actively expressed interest, Council applied and received funding (\$60,773), for urgent works on Gilbert Fraser Grandstand and preparation of Gilbert Fraser Reserve Precinct Conservation Management Plan.

Urgent conservation works have been completed by Council in 2008 using the internal resources. The draft plan was completed in October 2009 and underwent internal consultation before being submitted to Planning Services Committee (3rd February 2010). The Council's 24 February Meeting (PSC1002-30 refers) resolved to release the draft

plan for public consultation with a condition to extend the period from 35 days to 42 days, given the apparent high community interest.

Consultation was open from 2nd March, 2010 until the 13th April. At the commencement of this period it was advertised in the Herald and major stakeholders were sent a letter of invite to lodge their comments.

During the public consultation period an information meeting was held to offer further explanation of the CMP and the comments flowing from the meeting were included in evaluation of the written submissions received by the closing date of the consultative process.

COMMENT

The City has commissioned Hocking Planning and Architecture as head consultants to prepare the Conservation Management Plan for the park. The consultants' team of experienced heritage experts includes a historian, conservation architect and the landscape architect. The team have completed the draft plan in accordance with the HCWA's guidelines and model conservation plan, incorporating the early expressed requirements and interests of the major stakeholders, mainly the leaseholder of the reserve, North Fremantle Associated Clubs.

The draft plan was also consulted internally to make sure the relevant Council's units responsible for separate aspects of the park's use and maintenance are satisfied with the draft plan's recommendations and the internal comments are included in the consultation.

All stakeholders expressed support for the draft CMP. In addition comments received raised a range of associated issues that can be divided into the following three categories:

1. support for preparation of Gilbert Fraser Reserve Masterplan as the priority follow up step to conservation plan to ensure the recommended conservation measures are incorporated in the overall strategic planning for the park and implemented in the future.
2. expressed aspirations for the initiatives that fall outside the scope of both, conservation and master plans, such as request for Council's commitment to extend strategic considerations to areas outside Gilbert Fraser Reserve such as the river foreshore and recommended extension of the reserve to include lot 67, currently owned by the City of Fremantle and used as part of the oval.

The public consultation period is now closed and the comments have been evaluated. The report on community comments is in order for Council to note and endorse. The attached comments table includes the officer's recommendations for relevant amendments that should be reflected in re-drafting of the CMP before it is submitted to Council for further consideration and adoption.

CONCLUSION

Following the release of draft Gilbert Fraser Reserve Conservation Management Plan prepared for Council by Hocking Planning and Architecture, the officers run the internal and external consultative meetings with the interested stakeholders. At the conclusion of the consultation period the City received 3 written submissions, which together with the feedback provided at the meetings provide basis for the recommended re-view and amendment of the draft plan.

The summary of comments and recommendations for the relevant amendments are shown in the Attachment 1 table.

STRATEGIC AND POLICY IMPLICATIONS

Nil

TRIPLE BOTTOM LINE IMPLICATIONS

Economic

Gilbert Fraser Reserve Conservation Management Plan, when adopted by Council, would provide Council's direction for the park's ongoing care and the strategic framework for planning a compatible upgrade of the park and facilities. The heritage recognition and the Council's long term policy commitment to maintaining and upgrading the park as a public reserve provides certainty, thus adds to attractiveness of the area to its current and future residents as well as ensures ongoing viability of the surrounding public and commercial operators and facilities.

Environmental

The item is concerned with environmental protection of Gilbert Fraser Reserve as part of the city's non renewable heritage resources.

Social

There is evidence of strong community attachment to Gilbert Fraser Reserve as a community reserve and sporting place.

BUDGET IMPLICATIONS

Nil

LEGISLATIVE AND LEGAL CONSIDERATIONS

Nil

PRECINCTS AND OTHER COMMITTEES RECOMMENDATIONS PLUS OTHER CONSULTATION

As discussed in the report above and the attached comments summary table.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That Council:

- 1. note the comments received during the community consultation period;**
- 2. request that consultants review the draft Gilbert Fraser Reserve Conservation Management Plan in accordance with the recommendations of the summary table attached to this report.**
- 3. that the final draft be brought back to Council for further consideration and adoption.**

CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

The following item number PSC1006-121 was moved and carried en bloc.

PSC1006-121 DRAFT CONSERVATION PLAN – RESERVE NO 9335 (MONUMENT HILL MEMORIAL RESERVE) - RELEASE FOR PUBLIC CONSULTATION

DataWorks Reference:	TBR
Disclosure of Interest:	Nil
Previous Item:	N/A
Responsible Officer:	Director Planning and Development
Actioning Officer:	City Heritage Architect
Decision Making Authority:	Council
Agenda Attachments:	1 – Draft Conservation Plan Executive Summary 2 – Recommendations 3 – Zones of significance

PURPOSE

For Council to consider the release of the Draft Monument Hill Memorial Reserve Conservation Plan for public comment.

EXECUTIVE SUMMARY

A draft Conservation Plan has been prepared for the Monument Hill Memorial Reserve. The current Conservation Plan for the reserve was prepared and adopted by Council in 2001. The draft plan involving primarily a review of the current plan is considered appropriate to be released for public comment seeking input from the broader community.

BACKGROUND

The Monument Hill Memorial Reserve is an A Class Reserve vested in the City of Fremantle for the purpose of Contemplation of Memorials, Look-out, Landscape and the Community.

Following receipt of grant funding, Kelsall Binet Architects were commissioned to undertake a review of the current Conservation Plan for the Monument Hill Memorial Reserve, the previous Conservation Plan having been prepared and adopted by Council in 2001.

COMMENT

The draft Conservation Plan incorporates the following components;

- A historical and physical description and heritage assessment of the place
- A detailed statement of significance
- Recommendations relating to the conservation, use and management of the place,
- Recommendations relating to further actions by the City, in terms of physical works, investigations and policy development.

A copy of the full draft Conservation Plan is available in the Councillors lounge for information. Copies of the Executive Summary and Recommendations are shown in Attachments 1 and 2.

The reserve in general is identified a place of considerable significance, as evidenced by its inclusion on the Register of Heritage Places under the Heritage of WA Act.

Within the reserve itself, various graded zones of significance are identified, ranging from 'Considerable', 'Some', and 'Little'. These zones are shown in Attachment 3.

The document includes a comprehensive list of recommendations dealing with development within the reserve, formal use and informal activities, heritage interpretation, universal access, detail of conservation works, maintenance techniques and supervision, maintenance of mature trees and pest control. It specifically recommends further research works to be undertaken, including

1. The development of policies defining permissible uses and activities
2. Heritage Interpretation plan
3. Management Plan
4. Arboricultural report
5. Conservation Planning Strategy
6. Structural engineers report

Specific physical works recommended to be undertaken include

1. Suitable rendering of the solid balustrade to steps of the podium of the Fallen Sailors and Soldiers memorial - urgent
2. Repair of rendered limestone boundary wall - urgent
3. Repainting of podium retaining wall - medium
4. Minor works to ancillary memorials – medium
5. Repair of pedestrian footpath from corner of High Street and Bateman Street – medium
6. Removal of 'bush garden' verge treatment at each end of Bateman st and replacement with Buffalo Grass - medium
7. Removal of hard edged borders and paths in garden beds and low key informal edging be reinstated - Long
8. Reinstatement of bronze medallion rings from pylon of the RAN and MN gate, High Street - desirable
9. Investigation of original paint finish to acrylic painted podium balustrade, lantern piers and eternal flame pillars on the Fallen Soldiers and sailors memorial – desirable

In the above context, 'Urgent' means within 2 years, 'Medium' means within 2-5 years and 'Long term' means within 10 years.

The Conservation Plan, as would be expected and as is appropriate, is written from a professional conservation perspective.

If finally adopted by the Council, all of the recommendations will have to be considered in the context of the management of the reserve, other legislative or common law obligations on the City, existing resources and budget priorities related to its public reserves upgrade program. Consequently, all of recommendations in the draft plan will have to be considered in this context prior to consideration of implementation.

STRATEGIC AND POLICY IMPLICATIONS

The draft conservation plan may be used as a basis for further Local Law / Policy development.

BUDGET IMPLICATIONS

There are no direct budget implications associated with this item. However, many of the recommendations in the draft plan will require budget or resource allocation and as such will be subject of the standard budgetary and prioritisation process of the Council.

LEGISLATIVE AND LEGAL CONSIDERATIONS

Nil

PRECINCTS AND OTHER COMMITTEES RECOMMENDATIONS PLUS OTHER CONSULTATION

This item seeks Council's release of the draft plan for community comment and recommendations.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That :

- 1. The Draft Monument Hill Memorial Reserve Conservation Plan be advertised for a 35 day consultation period;**
- 2. A report on any submissions received be prepared for further Council consideration following the consultation period;**
- 3. It be noted that all recommendations contained within the draft plan will have to be further considered in the context of policy / local law development, and/or the standard budgetary and prioritisation process of the Council.**

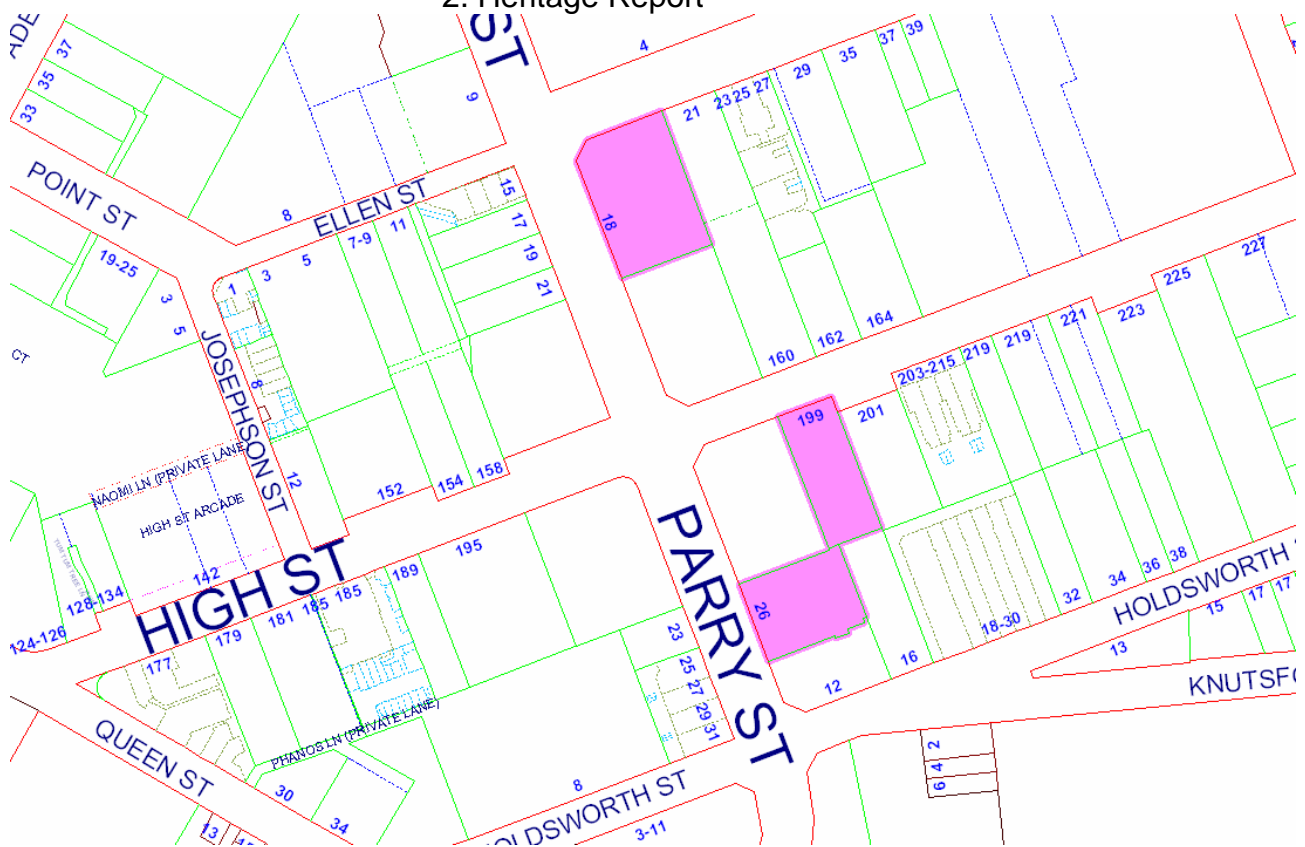
CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

The following item number PSC1006-122 was moved and carried en bloc.

PSC1006-122 PROPOSED SCHEME AMENDMENT NO. 30 TO LOCAL PLANNING SCHEME NO. 4 – ADDITIONAL SCHEDULE 12 PROVISIONS FOR PROPERTIES ON EASTERN SIDE OF PARRY STREET ADJOINING QUEENS SQUARE – INITIATION OF SCHEME AMENDMENT (SM)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Planning Projects
Actioning Officer: Strategic Planner
Decision Making Level: Council
Previous Item Number/s: PSC0908-144 (Council 26 August 2009)
Attachments: 1. Scheme Amendment Report
 2. Heritage Report



EXECUTIVE SUMMARY

The purpose of this report is to recommend initiation of a scheme amendment to include provisions in the City's Local Planning Scheme No. 4 to increase the building height and density of those properties on the eastern side of Parry Street abutting Queens Square. The proposed provisions include a maximum height of three storeys (maximum external wall height of 11 metres) with the provision to consider an additional storey (14 metres external wall height) set back from the street.

Council resolved on 26 August 2009 to support in principle a scheme amendment to provide for an increase to the existing building height and density for properties abutting Queens Square on the eastern side of Parry Street, subject to more detailed assessment of potential impact upon places of heritage significance including views of the Fremantle Prison.

The proponent has subsequently submitted a scheme amendment proposal report and accompanying heritage assessment (see attachments 1 and 2). In the heritage report potential future development of a scale allowed for in the scheme amendment proposal was considered and found to not have any impact on the heritage buildings and prison views. The proposed amendment is considered consistent with the recommendations of the Local Identity Code, the Fremantle Prison Buffer Zone report and could facilitate development that would contribute to the rejuvenation of Queens Square.

Council is therefore recommended to resolve to initiate the amendment.

BACKGROUND

The City has been requested to consider an amendment to the Local Planning Scheme No. 4 (LPS 4) submitted on behalf of the owner of No. 26 (Lot 440) Parry Street, Fremantle. The proposed scheme amendment would affect those properties abutting Queens Square in the mixed use zone on the eastern side of Parry Street. The amendment intends to create greater consistency in development standards between the eastern (mixed use zone) and western (city centre zone) sides of Queens Square.

Council resolved on 26 August 2009 to support in principle such an amendment to the Scheme. The resolution stated:

That Council:

1. *Support the principle of an amendment to Local Planning Scheme No. 4 to alter development requirements relating to properties adjoining Queens Square on the east side of Parry Street and the corner of Parry and Henderson Street to provide for:*

- (a) *A maximum building height of 3 storeys (maximum external wall height of 11m), with the discretionary ability for Council to consent to an additional storey subject to certain criteria being met (similar criteria to West End sub area in Schedule 12.12 – Local Planning Area 1 City Centre (Height Requirements) Clause 1.3 of Local Planning Scheme No.4); and*
 - (b) *New buildings providing for activated ground level frontages to High Street and/or Parry Street and passive surveillance to Queens Square.*
2. *Request the proponent to commission a professional heritage assessment of the potential impact of development in accordance with (1) above upon heritage listed places adjacent to Queens Square (specifically No. 160 High Street, No. 21 Parry Street and No. 23 Parry Street) and upon view corridors between Queens Square and Fremantle Prison, and to submit this assessment as part of any Scheme Amendment documentation.*
 3. *Give further consideration to a Scheme Amendment that addresses the matters in (1) and (2) above.*

The applicant has submitted a proposed scheme amendment in line with the first resolution and a heritage report that addresses the second resolution (see Planning Comment). For further background on Council's previous resolution refer to Council Minutes - item PSC0908-144.

Site Details

Queens Square is located on the four corners of Parry and High Street, with the western side of Parry Street being the formal entry to Fremantle city centre. Queens Square adjoins ten properties and has high heritage significance due to its proximity to the Fremantle Prison and three of these adjoining properties being heritage listed as follows:

- No. 160 (Lot 1) High Street, Fremantle: Dalkeith House, which is listed on the Heritage Council of Western Australia's Register as a Class 1A property.
- No. 21 (Lot) Parry Street, Fremantle: Included on LPS 4 Heritage List and as a Level 2 property on the Municipal Heritage Inventory (MHI).
- No. 23 (Lot 76) Parry Street, Fremantle: Included on LPS 4 Heritage List and as a Level 3 property on the MHI.

Of the remaining seven properties only one, the Justice Centre at No. 8 Holdsworth Street, has recently been redeveloped. The redevelopment of this site specifically integrates with Queens Square through a pedestrian path. The other six properties do little to address or enhance the public realm of Queens Square.

Currently the development standards under LPS 4 for properties adjoining Queen's square differ between those properties located on the western side of Parry Street and those on the eastern side of Parry Street.

Development standards on each side of Queens square are as follows:

Western side of Parry Street	Eastern side of Parry street
<p>Zoning: City Centre</p> <p>Density: R-IC (no R-Code value however maximum dwelling yields do apply)</p> <p>Height: Maximum building height 4 storeys (maximum 14 metres) with potential for a 5th storey (maximum 17 metres) based on specific development standards as set out in Schedule 12.12, Local Planning Area 1 – City Centre clause 1.1</p>	<p>Zoning: Mixed Use</p> <p>Density: Maximum residential density of R60, where residential development is proposed as part of a mixed use development</p> <p>Height: Maximum building height of 7.5 metres (2 storeys)</p>

The proposed scheme amendment seeks to bring development standards for those properties adjoining Queens Square on the eastern side of Parry Street closer to the standards applicable within the City Centre zone on the opposite side of Parry Street. These properties are namely: No. 199 (Lot 1) High Street, No. 26 (Lot 440) Parry Street and No. 18 (Lot 35) Parry Street.

Background and City initiatives which relate to development of Queens Square include:

- In November 2000 Council adopted a concept plan for Queens Square to create improvements to the Square with a view of enhancing the attraction of this sector of the Central Business District for further quality commercial development.
- The City's Local Identity Code recommends the creation of an urban edge around Queens Square with properties adjoining the Square to have a height of 15.5 metres for properties along High Street and 10.5 metres for Parry Street properties.
- The Fremantle Prison has been nominated for World Heritage Listing. A report on 'buffer zones' was commissioned and Queens Square was found not to be located within the 'buffer zone' however it is located within the 'zone of influence'. In the 'zone of influence' development needs to be considered so that it does not adversely impact on the values of the *"cultural significance of the Fremantle Prison with particular regard to rezoning, plot ratio, site coverage, density, buildings height, and front setback provisions."*

CONSULTATION

Should Council resolve to initiate this amendment to the Scheme, it will be referred to the Environmental Protection Authority (EPA) for assessment, prior to the commencement of advertising. Assuming the EPA does not require an environmental assessment, the amendment will be publicly advertised for not less than 42 days in accordance with the *Planning and Development Act 2005*, the *Town Planning Regulations 1967* and Council's *Local Planning Policy 1.3 - Public Notification of Planning Approvals*.

PLANNING COMMENT

Council’s ‘in principle’ resolution of 26 August 2009 recognised that the existing built form surrounding Queens Square does little to integrate with the public realm and there is scope to increase the height and density on the eastern side of the Square to provide for appropriate redevelopment of adjacent properties with active frontages at ground level and passive surveillance at upper levels. This approach is consistent with the City’s Local Identity Code and Council’s intent (enhance the attraction of this sector) of the 2000 concept plans when upgrading the amenity of the square.

Proposed Scheme Amendment No. 30 – Queens Square

The applicant’s following proposed amendment to Schedule 12 – Local Planning Area 2 – Fremantle, is consistent with the City’s in principle support:

<p>Sub Area: 2.3.2 Queens Square</p>	
<p>2.3.2.1 Height Requirements</p>	<p>Despite the general height requirements outlined in 2.1 above, building height shall be limited to a maximum height of three storeys (maximum external wall height of 11* metres as measured from ground level with a maximum roof plain pitch of 33 degrees). Council may consent to an additional storey subject to – (a) the upper level being sufficiently setback from the street so as to not be visible from the street(s) adjoining the subject site, (b) maximum external wall height of 14* metres, (c) compliance with clause 2.2 above, and * inclusive of roof parapet and spacing between floors.</p>

	Note: 'Visible from the street' will be based on an assumed line of sight measured at a perpendicular angle from the streets adjoining the subject land, at an assumed point of 1 metre less than the street width and 1.6 metres above ground level.
2.3.2.2 Building Requirements	New buildings shall provide for activated ground level frontages to High Street and/or Parry Street and passive surveillance to Queens Square.

The applicant provides the following reasons for the scheme amendment:

The proposed amendment is intended to provide a development framework that will:

- Reinforce the formal layout and definition of the park (Queens Square) by enhancing the hard urban edges to its boundaries;
- Ensure that the development within the precinct is sympathetic to the existing heritage buildings in the locality;
- Ensure an appropriate height and scale of development consistent with existing development controls applying to the western side of Parry Street;
- Provide for active frontages on the ground floor of buildings;
- Encourage passive surveillance through residential development to upper levels; and
- Provide a catalyst to promote appropriate redevelopment.

For further information on the applicant's proposed scheme provisions see attachment 1.

Heritage Report

Council's previous resolution additionally required a detailed heritage assessment of the potential impact of development consistent with the proposed revised building heights on the existing heritage listed buildings and views of the Fremantle Prison. The proponent subsequently commissioned an assessment which has been submitted in support of the proposed scheme amendment (see Attachment 2).

The assessment includes a series of photographs to illustrate the existing views of the Fremantle Prison from several points around Queens Square. The main findings were that currently the views of the existing buildings around the square and to the prison are limited, mostly due to the mature vegetation and landscaping in the Square and locality; the trees mask views of the buildings around the square and views to the prison. The report finds that it is only when one gets closer to the Prison on Parry Street, near Holdsworth Street, that there is a reasonable and recognisable view of the Prison.

In regard to the impact of new development on the existing heritage buildings the heritage report indicates that the Square being separated by the two streets (High and Parry - at least 20m road and footpath width), dividing it through the middle, is the main factor that would limit the future impact of development on the heritage buildings. With this separation new development would not adjoin a heritage building to overshadow or dominate it and the heritage buildings would be set apart from any new/contemporary development.

The heritage report concludes that: *“New three/four level development on the eastern side of Parry Street will not impact adversely on any views to the Prison from Queens Square. Similarly, the proposed development will not have an impediment to any relevant view corridors to the other heritage listed places in the locality.”*

Furthermore, *“It will be the architectural character of new three/four level development that will contribute to or detract from the public spaces of the square and any relevant views.”*

Lastly, *“The proposed development of three or four storeys in my considered assessment will not impact inappropriately on heritage values nor on views to the Prison.”*

For the more information on the heritage report please see Attachment 2.

Fremantle Prison Buffer Zone Report

The Fremantle Prison Buffer Zone report does not deem Queens Square a ‘buffer zone’, but does include it in the ‘zone of influence’ whereby any amendments to the City’s planning provisions need to address the potential impact on the cultural significance of the prison.

On a site visit undertaken by the City’s planning officers it was evident that the Prison, or parts of it, can be viewed from Queens Square. Redevelopment to three or four storeys of those properties directly adjoining the square would block some of the views of the prison looking east from the square. However these views are not entirely discernable until one gets closer to Holdsworth Street because of the existing buildings, topography of the area and mature vegetation in and around the square. Accordingly, on balance officers consider that the conclusion reached in the heritage report that the affected views are of little significance is a reasonable one, and any loss of these Prison views would be compensated for by appropriate redevelopment of the adjoining Queens Square properties that could strengthen the Square’s ‘gateway to the City’ (and gateway to the Prison) urban design function. Appropriately designed new development could also add vibrancy and increase the amenity of the area.

12 Holdsworth Street and 160 High Street

While the ‘in principle’ support expressed in the previous Council resolution included reference to 12 Holdsworth Street and 160 High Street, on further examination officers consider it would not be appropriate to include these properties in the Scheme Amendment.

The rationale for initially including these properties was to complete the enclosing of the square on all sides to the next adjoining road. However 12 Holdsworth Street does not directly adjoin Queens Square like all the other subject properties and development on this lot would have the most potential impact on the view to the prison from Parry Street. The heritage report confirms this though does note that the impact of development on the lot *‘will be reasonable and not unacceptable in regard to the cultural significance of the Prison’*. Nonetheless, to safeguard views to the prison 12 Holdsworth Street has not been included in this scheme amendment.

Similarly, 160 High Street (Dalkeith House) has not been included in the amendment. 160 High Street is listed on the Heritage Council of Western Australia's Register as a Class 1A property and is considered to have reached its full development potential. Including it in this amendment could put the existing building at risk of incompatible development applications, which would not likely be supported by Council, even if the Scheme provisions potentially allow for such development.

Further requirements to protect views of the Prison

Council could further consider specific setback requirements for development on 26 Parry Street. Like 12 Holdsworth Street development up to the front boundary on 26 Parry Street could obscure sightlines to the prison. Setbacks were not considered in the heritage report, but as the heritage report did not flag 12 Holdsworth Street as a threat to views of the Prison there most likely was little reason for it to consider setbacks to 26 Parry Street. Accordingly it is difficult to say if setbacks, and to what distance, are appropriate, but since the heritage report did not consider them there is little reason to require them on 26 Parry Street.

CONCLUSION

It is considered that a proposed scheme amendment to allow three storeys with the possibility of a fourth storey set back for properties adjoining Queens Square on the eastern side of Parry Street is appropriate based on the context of Queens Square in relation to the setting of Fremantle Prison and the heritage character of adjoining buildings. The heritage assessment concluded that three to four storey development would have little impact on the heritage values of the area and views to the Prison. The amendment is also consistent with the building height ('urban walls') recommendations in the Local Identify Code, Fremantle Prison Buffer Zone Report and Council's intent when upgrading the amenity of the square in 2000.

Accordingly it is recommended that Council initiate proposed scheme amendment No. 30 as described above to apply to those three properties adjoining Queens Square on the eastern side of Parry Street being No. 199 (Lot 1) High Street, No. 26 (Lot 440) Parry Street and No. 18 (Lot 35) Parry Street.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

1. That Council resolve, pursuant to Section 75 of the Planning and Development Act 2005, to amend Local Planning Scheme No 4 by:

Amending Clause 12.12 Schedule 12 Local Planning Areas (Height Requirements) Local Planning Area 2 – Fremantle to include under clause 2.3 a new sub area 2 with provisions relevant to No. 199 (Lot 1) High Street, No. 26 (Lot 440) Parry Street and No. 18 (Lot 35) Parry Street, to read as follows:

<p>Sub Area 2 Queens Square (east)</p>	
<p>2.3.2.1 Height Requirements</p>	<p>Despite the general height requirements outlined in 2.1 above, building height shall be limited to a maximum height of three storeys (maximum external wall height of 11* metres as measured from ground level with a maximum roof plain pitch of 33 degrees). Council may consent to an additional storey subject to –</p> <ul style="list-style-type: none"> (a) the upper level being sufficiently setback from the street so as to not be visible from the street(s) adjoining the subject site, (b) maximum external wall height of 14* metres, (c) compliance with clause 2.2 above, and <p>* inclusive of roof parapet and spacing between floors.</p> <p>Note: 'Visible from the street' will be based on an assumed line of sight measured at a perpendicular angle from the streets adjoining</p>

	the subject land, at an assumed point of 1 metre less than the street width and 1.6 metres above ground level.
2.3.2.2 Other Building Requirements	New buildings shall provide for activated ground level frontages to High Street and/or Parry Street and passive surveillance to Queens Square.

- 2. That the Mayor and Chief Executive Officer be authorised to execute the relevant Scheme Amendment documentation.**
- 3. That the Local Planning Scheme Amendment to be submitted to the Environmental Protection Authority requesting assessment prior to commencing public consultation.**
- 4. That the Local Planning Scheme Amendment be submitted to the Western Australian Planning Commission for information.**
- 5. That upon receipt of the environmental assessment from the Environmental Protection Authority, the amendment be advertised for a period of not less than 42 days in accordance with requirements of the Town Planning Regulations 1967 and Council’s Local Planning Policy LPP 1.3 ‘Public Notification of Planning Approvals’.**

CARRIED: 6/0

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

The following item number PSC1006-123 was moved and carried en bloc.

PSC1006-123 AMENDMENTS TO LOCAL PLANNING POLICY LPP2.4 BOUNDARY WALLS IN RESIDENTIAL DEVELOPMENT - FINAL ADOPTION (BC)

DataWorks Reference: 117/028
Disclosure of Interest: Nil
Responsible Officer: Manager Planning Projects
Actioning Officer: Strategic Planning Officer
Decision Making Level: Council
Previous Item Number/s: PSC1004-80

EXECUTIVE SUMMARY

The purpose of this report is to recommend that Council adopt amended local planning policy, *LPP2.4 Boundary Walls in Residential Development*, without further modification.

BACKGROUND

At its Ordinary Meeting on 28 April 2010, Council resolved to adopt for the purpose of public advertising draft minor amendments to local planning policy 2.4 - *Boundary Walls in Residential Development*.

The amendments to the policy are intended to provide greater clarity regarding the intent of the policy and to provide greater consistency with the provisions and wording of the Residential Design Codes. Previous item PSC1004-80 provides further background and explanation of the proposed amendments to the policy.

STATUTORY AND POLICY IMPLICATIONS

Local Planning Scheme No. 4 (LPS4)

Clause 2.4 of LPS4 allows Council to amend a local planning policy and outlines the procedure that must be following in order to amend a policy. The process of amending a local planning policy under the Scheme is identical to the process of making a new policy.

CONSULTATION

The draft amended local planning policy was advertised for comment from 7 May 2010 until 7 June 2010 (30 days) in accordance with clause 2.4 of LPS4 and local planning policy LPP1.3 - *Public Notification of Planning Proposals*. Community notification consisted of:

- Advertisements placed in the 'Fremantle Herald' for two consecutive weeks,
- Precinct Group notification, and
- City of Fremantle website notification.

No submissions were received during the consultation period.

PLANNING COMMENT

The adoption and implementation of the local planning policy, *LPP2.4 Boundary Walls in Residential Development*, has provided clearer direction to City officers, applicants and the broader community on Council's stance on boundary walls as part of residential development. The proposed amendments to the policy are considered to provide greater clarity to the intent of the policy and to provide greater consistency with the Residential Design Codes.

Given that no submissions were received during the community consultation period, it is recommended that the Council adopt the amended local planning policy without modification.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That Council:

- 1. Adopt amended local planning policy, *LPP2.4 – Boundary Walls in Residential Development*, without modification, in accordance with the procedures set out in clause 2.4 of the City of Fremantle Local Planning Scheme No. 4 as shown below:**

CITY OF FREMANTLE

LOCAL PLANNING POLICY 2.4

BOUNDARY WALLS IN RESIDENTIAL DEVELOPMENT

ADOPTION DATE: 22 October 2008
AMENDED: date to be inserted
AUTHORITY: LOCAL PLANNING SCHEME NO.4

STATUTORY BACKGROUND

Clause 5.2.2 of the City's Local Planning Scheme No. 4 states that unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of the Codes.

Section 5.3.1 of the Residential Design Codes states that a local government may adopt a local planning policy which varies or replaces the acceptable development provisions of the Residential Design Codes relating to boundary walls. The purpose of this policy is to:

- (a) replace the acceptable development provisions of clause 6.3.2A2 of the Residential Design Codes; and
- (b) identify factors which, when applying the performance criteria in clause 6.3.2P2 of the Residential Design Codes, will be considered in determining whether a boundary wall is desirable in order not to have any significant adverse effect on the amenity of an adjoining property.

This local planning policy applies in addition to any other applicable requirements under Local Planning Scheme No. 4, the Residential Design Codes and any other relevant local planning policy of the City.

Compliance with this Local Planning Policy is required in addition to any other requirements contained with Local Planning Scheme 4, the provisions of the Residential Design Codes and any other relevant Local Planning Policy.

POLICY

Acceptable development standards

The acceptable development provisions in clause 6.3.2 A2 of the Residential Design Codes are replaced with the following:

A2: Walls built up to, or within 750 mm of, a boundary behind the front setback line within the following limits, subject to the overshadowing provisions of design element 6.9:

- a) where the construction of such walls is specifically permitted by the City's Local Planning Scheme No. 4 or another Local Planning Policy; or
- b) where the wall is proposed to abut an existing or simultaneously constructed boundary wall of similar or greater dimensions; or
- c) where the wall is proposed to abut a property that is not used for residential purposes; or
- d) where the wall is proposed on a lot, not including a battleaxe lot, with a frontage (as defined by the Residential Design Codes) of less than 10 metres and complies with the following:
 - i) In areas coded R20 and R25, walls not higher than 3m with an average of 2.7m up to 9m in length up to one side boundary; or
 - ii) In areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for two-thirds the length of the balance of the boundary behind the front setback, to one side boundary only.

Application of Performance criteria

When considering an application under the performance criteria in clause 6.3.2P2 of the Residential Design Codes, the Council is required to consider a number of specified matters, including whether a boundary wall is desirable in order to not have any significant adverse effect on the amenity of the adjoining property. In considering the effect of a proposed boundary wall on the amenity of an adjoining property, the Council shall have regard to the following factors:

- access to daylight and ventilation to major openings;
- access to direct sunlight and ventilation to outdoor living areas;
- sense of confinement due to accessible cumulative building bulk;
- existing trees or vegetation;
- access to views of significance.

This list of factors is not exhaustive and does not preclude Council from considering any other matter which is relevant to an assessment of the effect of a boundary wall on the amenity of an adjoining property. In considering such effects, the Council will have regard to any comments made in this regard by the owners and occupiers of the adjoining properties.

CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

The following item number PSC1006-124 was moved and carried en bloc.

PSC1006-124 PROPOSED SCHEME AMENDMENT NO. 34 TO LOCAL PLANNING SCHEME NO. 4 - LOCAL RESERVE LAND USE - FINAL ADOPTION (BC)

DataWorks Reference: 218/038
Disclosure of Interest: None
Responsible Officer: Manager Projects and Policy
Actioning Officer: Strategic Planning Officer
Decision Making Authority: Council
Previous Item Number/s: PSC1002-31

EXECUTIVE SUMMARY

The purpose of this report is to recommend to Council final adoption of an amendment to Local Planning Scheme No. 4, in relation to the Local Reserves land use table and associated provisions.

BACKGROUND

At its Ordinary Meeting of Council on 24 February 2010, Council resolved to initiate Scheme Amendment 34 to Local Planning Scheme No. 4 (LPS4) (refer to PSC1002-31).

Scheme Amendment 34 proposes to delete the land use table relating to the use of Local Reserves and text associated with the land use table (clauses 3.5, 3.6, 3.7, 3.8 and 3.9).

It is considered that additional land use control in relation to Local Reserves, in the form of a land use table and associated text, is unnecessary and inflexible. Furthermore, the current inclusion in the Local Reserves use table of certain commercial uses as permissible uses on reserved lands (such as Restaurant or Health Studio on an Open Space Reserve) can create an apparent inconsistency with the clearly stated intended purpose of the reserve in the Scheme.

The proposed Scheme Amendment to LPS4 in relation to use permissibility on reserved land would not change the purpose and intent of the reserve, the land tenure of any reserve or the requirement to obtain approvals from the Council. The proposed Scheme Amendment will simply provide the Council with greater flexibility as to which uses it may wish to approve on Local Reserves, having regard to the intended purpose of the reserve, and provide greater internal consistency within LPS4.

CONSULTATION

Following comment from the Environmental Protection Authority, community consultation has been undertaken in accordance with Regulation 25(2) of the Town Planning Regulations 1967. The proposed Scheme Amendment was advertised for comment from 13 April 2010 until 26 May 2010 in accordance with the City's local planning policy, *LPP1.3 Public Notification of Planning Proposals*. Community notification consisted of:

- Advertisements placed in the 'Fremantle Herald' and 'West Australian' newspapers,
- Precinct Group notification,
- Letters to relevant stakeholders,
- City of Fremantle website notification,
- Scheme Amendment report and information available for viewing at City offices during the period.

Regulation 18(1) of the Town Planning Regulations 1967 requires the Council to consider any submissions received during its determination of the Scheme amendment.

No submissions were received during the consultation period.

PLANNING COMMENT

The proposed Scheme Amendment will provide greater flexibility in relation to land use approvals on reserved land and will further provide greater internal consistency within LPS4. The proposed Scheme Amendment will also make LPS4 consistent with the Model Scheme Text provisions relating to Local Reserves.

Given that no submissions were received during the consultation period, it is recommended that the Council adopt the proposed Scheme Amendment without modification.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That Council:

1. Pursuant to Section 75 of the Planning and Development Act 2005 and Regulation 17(2)(a) of the Town Planning Regulations 1967, resolve to adopt without modification Scheme Amendment No. 34 to amend Local Planning Scheme No. 4 by deleting clauses 3.5, 3.6, 3.7, 3.8 and 3.9 and the table titled 'Table 1 – Local Reserves' following clause 3.9.1 from the Scheme Text.
2. Authorise the Mayor and the Chief Executive Officer to execute the relevant documentation and affix the common seal of the City of Fremantle on the documentation.
3. Request the Minister for Planning to grant final consent to Scheme Amendment No. 23 as referred to in (1) above.

CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

PSC1006-119 FREMANTLE ARTS CENTRE PROJECT - APPROVAL FOR DESIGN DEVELOPMENT PLANS FOR STAGE 4 CONSERVATION WORKS

DataWorks Reference:	214/017
Disclosure of Interest:	nil
Meeting Date:	16 June 2010
Previous Item:	106/004
Responsible Officer:	Director Planning and Development Services
Actioning Officer:	City Heritage Architect
Decision Making Authority:	Council
Agenda Attachments:	Arts Centre Project, stage 4 – design development plans will be available on display in Councillors lounge or e-mailed as a separate documentation on request Quantity Surveyor's costing of the proposed works Written comments on the design development plans

PURPOSE

For Council to consider and agree to the revised scope of conservation works in order to facilitate the project's progression into statutory approvals, contract documentation and implementation of the approved conservation works.

EXECUTIVE SUMMARY

In 2008 Council received and accepted the Commonwealth Government's (Department of the Environment, Water, Heritage and the Arts – DEWHA) grant of \$453,400.00 for Fremantle Arts Centre conservation works, stage 4. The City has commissioned Slavin Architects as head consultants to design, document and administer the implementation of the agreed scope of conservation works.

The consultants have prepared design development plans showing the extent and nature of the works and conservation recommendations regarding the following three categories of works:

- full restoration of the Ord Street and the central courtyard's façades
- restoration and upgrading works in the central courtyard and western terrace
- improvement of public circulation within the buildings, including fire escape routes.

The proposed works have been preliminarily consulted with major stakeholders and it has become apparent that while restoration of the Ord Street and courtyard facades, public circulation and western terrace are universally supported, more work is required to resolve issues of the central courtyard before the proposal can be recommended for implementation.

Council's support is sought for the revised scope of works in order to proceed with contract documentation and implementation of project.

BACKGROUND

At its November 2001 meeting (item SP68 refers) Council adopted Fremantle Museum and Arts Centre Conservation Plan prepared for the City by Palassis Architects. This plan had formed the basis for subsequently prepared FM&AC Conservation Works Strategy prepared by Considine & Griffiths Architects and adopted by Council in March 2005. The estimated total cost of implementation of this strategy was at the time estimated to be \$6,5m.

Both plans provided basis for the City's subsequent applications for the external funding to implement the strategy and the City preceded with staged implementation of the recommended conservation works as the funds became available.

In the years between 1998 and 2008 the City received and accepted a number of heritage conservation grants for the staged restoration of the Arts Centre:

- \$25,000 from the Lotterywest; for the preparation of the Conservation Plan adopted by Council in November 2001;
- \$48,950 from Commonwealth Government for preparation of the Conservation Works Strategy adopted in March 2005;
- the Lotterywest grant of \$50,000 in July 05 for implementation of conservation works stage 1 and 2 on Ord Street façade, mainly reconstruction of the decorated gables and restoration of the boundary wall.
- the Lotterywest grant of \$106,000 in May 08 for stage 3 of restoration of the Ord Street façade.
- the Commonwealth Department of Environment, Water, Heritage and the Arts grant of \$453,400 in June 08.
- The scope of restoration works at each subsequent stage is usually determined by the level of funding and decision of Council to match each grant with the funds available from the Heritage Places Reserve and/or municipal budget. Stage 4 of the project has been allocated the combined budget of \$1,232,700 in the 2008/09 financial year for completing the agreed scope of works.

In March 2009 the City commissioned Slavin Architects as head consultants to prepare plans for stage 4 of restoration works. The attached design development plans show the extent of the works as defined by the funding agreement between the Commonwealth Government and the City of Fremantle and describe the restoration works as recommended by the Consultants. The design development plans have been costed by the Quantity Surveyor and the corresponding estimated cost of the works are also included to assist in the decision making regarding the project's budget.

COMMENT

The bulk of the recommended works involve assessing and resolving the backlog of the long overdue maintenance involving re-pointing and repairs to Ord Street and central courtyard's masonry walls including repair and repointing of masonry walls, repainting and making operable all windows and doors, replacement of the roofs above porches, resolving raising damp issues and upgrade of the storm water disposal system. This category of restoration works involve the straightforward expert assessment of the extent and nature of the deterioration of the buildings' fabric and recommendations for the relevant conservation measures in order to rectify the damage and arrest further wear and tear in accordance with the conservation principles and standards.

In addition the scope of works calls for the restoration and upgrading of the western and central courtyards as recommended in the Arts Centre Conservation Works Strategy. In particular the recommended works defined by the funding agreement require that the following works be completed at this stage:

1. restoration of the original landscaping, upgrading and heritage interpretation of the courtyard area, including upward extension of the existing verandahs along northern and western facades of the courtyard. The brief for the proposed interpretative reconstruction of the balcony level of the verandahs was not limited to strictly conservation objectives. It also aims at the functional improvements such as:
 - improving circulation between the northern and southern buildings at the first floor level, particularly in respect of the strategic plan of adding new staircase and a lift inside the former Museum's reception wing in the future;
 - better weather protection for people and the facades;
 - providing outdoor space for the art classes, and:
 - viewing balcony during outdoor performances,Therefore it was assumed that should the faithful reconstruction of the balcony will not be confirmed by on-site evidence, the design should provide a compatible upward extension of the currently single storeys verandahs.
2. removal of the asbestos verandahs' roofing and reconstruction of the galvanised zincaluminum roofing on the existing verandahs;
3. conservation of the landscaping features and upgrading of the courtyard space, including installation of a new stage for outdoor performances;
4. upgrading of the western terrace
5. improving public access and fire escape routes within the building, including replacement of non-complying stairs with the complying escape staircases.

The design solutions proposed by the Consultants for the category of works listed in 1 – 4 have been referred to major internal stakeholders, including Director Planning Services, Director Community Development, officers of the Arts Centre and Technical Services. Also, considering the exceptional significance of the Arts Centre (pending National Heritage nomination and potentially World Heritage Listing), the proposed design solutions have been referred to two consultant heritage experts to the Commonwealth Government, Heritage Management Consultants (Dr Michael Pearson) and Marshall Heritage Architects (Duncan Marshall) for preliminary assessment on specific issue of adherence to the Burra Charter principles and standards.

It has become clear that more consideration, investigation and design effort is required to arrive at acceptable standard of the design solutions for the category of works listed in points 1 and 3 above. The current commitment to adhere to the adopted FAC Conservation Plan's recommendations should provide for exploration of a range of options in order to arrive at an optimal design solution in both, heritage conservation terms and Arts Centre's requirements. Especially now when the recently vacated original section of the building has become available for alternative uses, the adopted Conservation Works Strategy should be reviewed to better inform the consideration of new uses and planning for compatible adaptation of the vacated buildings.

The preliminary consultation was useful as it has provided early opportunity for Council to revise the scope of work before the design development plans are ready to undergo the statutory approval process, including referral to Heritage Council of WA and the Department of the Environment, Water, Heritage and the Arts (DEWHA) for advice.

The additional reason for recommended revision of the scope of works relates to the hold-up of the documentary stage of the project to date. The project's program needs to be adjusted in order to meet the current commitment to its completion by the end of 2010. The consequence of such adjustment prevents any substantial construction works taking place in the courtyard as of October 2010 due to the Arts Centre's already booked courtyard performances.

In summary the recommended reduction of the current scope of works opens up an opportunity to:

- ensuring implementation of the works by the target date of December 2010;
- reducing the complexity of the proposed works thus simplify the documentation and allowing the Consultants to address and document more thoroughly the strictly technical conservation works on the facades.
- considering extension of conservation works to the northern (Finnerty St) and southern (outdoor concert lawn) facades of the main building.
- potentially reducing the total cost of the works. While the level of the Commonwealth and Lotterywest funding is given, the demand for Council's matching funds may potentially be less than planned to date.

It is therefore recommended that the works identified in points 1 and 3 above (upgrading of the central courtyard, upward extension to the existing northern and western verandahs, and heritage interpretation) be excluded from the project i.e. from contract documentation and the implementation stage and officers explore the option of extending the Ord Street façade's restoration works to Finnerty Street and the concert lawn's facades instead.

RISK AND OTHER IMPLICATIONS

Financial

The cost estimates prepared by Peacock Quantity Surveying Pty Ltd will need to be revised to reflect the recommended reduction in the scope of works.

Legal

The proposed reduction of the scope of approved works will need to be approved by DEWHA.

Operational

Conservation works on the courtyard facades will require coordination between the builder and the Arts Centre.

Organisational

nil

CONCLUSION

The preliminary consultation on the design development plans demonstrates that more consideration, investigation and design effort is needed through rigorous adherence to the prescribed Burra Charter process to arrive at acceptable standard of the design solutions for the proposed central courtyard's upgrading works, upward extension to the existing northern and western verandahs, and heritage interpretation.

It is recommended that these works be excluded from the project i.e. from contract documentation and implementation stage and that officers explore the option of extending the Ord Street façade's restoration works to Finnerty Street and the southern façade along the concert lawn's.

It is further recommended that statutory approvals be sought for the revised scope of works, including advice from the HCWA and DEWHA.

STRATEGIC AND POLICY IMPLICATIONS

Nil

PRECINCTS AND OTHER COMMITTEES RECOMMENDATIONS PLUS OTHER CONSULTATION

The proposed revision of the original scope of restoration works reflects comments received from the preliminary consultation of internal stakeholders and heritage experts.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That

- 1. the submitted design development plans are received and noted.**
- 2. contract documentation, costing and implementation proceed for the following works:**
 - a. restoration of Ord Street and the central courtyard facades**
 - b. upgrade of the western terrace**
 - c. upgrade of public circulation and fire escape routes;**
 - d. replacement of asbestos roofs on eastern and southern verandah of the courtyard;**
 - e. improved circulation and upgrading of fire escape routes inside the buildings.**
- 3. following works be excluded from the revised scope:**
 - a) upgrading works and heritage interpretation of the central courtyard**
 - b) upward extension to the existing, northern and western single storey verandahs of the central courtyard.**
- 4. approval be sought for the revised scope of the works from the Heritage Council of WA.**
- 5. Department of the Environment, Water, Heritage and the Arts be advised accordingly.**

CARRIED: 6/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

CONFIDENTIAL MATTERS

Nil.

CLOSURE OF MEETING

THE PRESIDING MEMBER DECLARED THE MEETING CLOSED AT 9.25 PM.

SUMMARY GUIDE TO CITIZEN PARTICIPATION AND CONSULTATION

The Council adopted a Participation Policy in August 2001 to give effect to its commitment to involving citizens in its decision-making processes.

The City values citizen participation and recognises the benefits that can flow to the quality of decision-making and the level of community satisfaction.

Effective participation requires total clarity so that Elected Members, Council officers and citizens fully understand their respective rights and responsibilities as well as the limits of their involvement in relation to any decision to be made by the City.

How consultative processes work at the City of Fremantle	
The City's decision makers	1. The Council, comprised of Elected Members, makes policy, budgetary and key strategic decisions while the CEO, sometimes via on-delegation to other City officers, makes operational decisions.
Various participation opportunities	2. The City provides opportunities for participation in the decision-making process by citizens via its Advisory Committees and Task Forces, its Community Precinct System, and targeted consultation processes in relation to specific issues or decisions.
Objective processes also used	3. The City also seeks to understand the needs and views of the community via scientific and objective processes such as its annual Community Survey.
All decisions are made by Council or the CEO	4. These opportunities afforded to citizens to participate in the decision-making process do not include the capacity to make the decision. Decisions are ultimately always made by Council or the CEO (or his/her delegated nominee).
Precinct focus is primarily local, but also city-wide	5. The Community Precinct System establishes units of geographic community of interest, but provides for input in relation to individual geographic areas as well as on city-wide issues.
All input is of equal value	6. No source of advice or input is more valuable or given more weight by the decision-makers than any other. The relevance and rationality of the advice counts in influencing the views of decision-makers.
Decisions will not necessarily reflect the majority view received	7. Local Government in WA is a representative democracy. Elected Members and the CEO are charged under the Local Government Act with the responsibility to make decisions based on fact and the merits of the issue without fear or favour and are accountable for their actions and decisions under law. Elected Members are accountable to the people via periodic elections. As it is a representative democracy, decisions may not be made in favour of the majority view expressed via consultative processes. Decisions must also be made in accordance with any statute that applies or within the parameters of budgetary considerations. All consultations will

How consultative processes work at the City of Fremantle	
	clearly outline from the outset any constraints or limitations associated with the issue.
Decisions made for the overall good of Fremantle	8. The Local Government Act requires decision-makers to make decisions in the interests of “the good Government of the district”. This means that decision-makers must exercise their judgment about the best interests of Fremantle as a whole as well as about the interests of the immediately affected neighbourhood. This responsibility from time to time puts decision-makers at odds with the expressed views of citizens from the local neighbourhood who may understandably take a narrower view of considerations at hand.
Diversity of view on most issues	9. The City is wary of claiming to speak for the ‘community’ and wary of those who claim to do so. The City recognises how difficult it is to understand what such a diverse community with such a variety of stakeholders thinks about an issue. The City recognises that, on most significant issues, diverse views exist that need to be respected and taken into account by the decision-makers.
City officers must be impartial	10 City officers are charged with the responsibility of being objective, non-political and unbiased. It is the responsibility of the management of the City to ensure that this is the case. It is also recognised that City Officers can find themselves unfairly accused of bias or incompetence by protagonists on certain issues and in these cases it is the responsibility of the City’s management to defend those City officers.
City officers must follow procedures	11 The City’s consultative processes must be clear, transparent, efficient and timely. City officers must ensure that policies and procedures are fully complied with so that citizens are not deprived of their rights to be heard.
Consultation processes have cut-off dates that will be adhered to.	12 As City officers have the responsibility to provide objective, professional advice to decision-makers, they are entitled to an appropriate period of time and resource base to undertake the analysis required and to prepare reports. As a consequence, consultative processes need to have defined and rigorously observed cut-off dates, after which date officers will not include ‘late’ input in their analysis. In such circumstances, the existence of ‘late’ input will be made known to decision-makers. In most cases where citizen input is involved, the Council is the decision-maker and this affords citizens the opportunity to make input after the cut-off date

How consultative processes work at the City of Fremantle

	<p>via personal representations to individual Elected Members and via presentations to Committee and Council Meetings.</p>
<p>Citizens need to check for any changes to decision making arrangements made</p>	<p>13 The City will take initial responsibility, via 'Consultation Process notifications', for making citizens aware of expected time-frames and decision making processes, including dates of Standing Committee and Council Meetings if relevant. However, as these details can change, it is the citizens responsibility to check for any changes by visiting www.freofocus.com/projects/html/default.cfm , checking the Port City Column in the Fremantle Herald or inquiring at the Service and Information Desk by phone or in-person.</p>
<p>Citizens are entitled to know how their input has been assessed</p>	<p>14 In reporting to decision-makers, City officers will in all cases produce a Schedule of Input received that summarises comment and recommends whether it should be taken on board, with reasons.</p>
<p>Reasons for decisions must be transparent</p>	<p>15 Decision-makers must provide the reasons for their decisions.</p>
<p>Decisions posted on www.freofocus.com/projects/html/default.cfm</p>	<p>16 Decisions of the City need to be transparent and easily accessed. For reasons of cost, citizens making input on an issue will not be individually notified of the outcome, but can access the decision at www.freofocus.com/projects/html/default.cfm or at the City Library or Service and Information counter.</p>

Issues that Council May Treat as Confidential

Section 5.23 of the new Local Government Act 1995, Meetings generally open to the public, states:

1. Subject to subsection (2), the following are to be open to members of the public -
 - a) all council meetings; and
 - b) all meetings of any committee to which a local government power or duty has been delegated.
2. If a meeting is being held by a council or by a committee referred to in subsection (1) (b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:
 - a) a matter affecting an employee or employees;
 - b) the personal affairs of any person;
 - c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - e) a matter that if disclosed, would reveal –
 - i) a trade secret;
 - ii) information that has a commercial value to a person; or
 - iii) information about the business, professional, commercial or financial affairs of a person.
Where the trade secret or information is held by, or is about, a person other than the local government.
 - f) a matter that if disclosed, could be reasonably expected to -
 - i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - ii) endanger the security of the local government's property; or
 - iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.
 - g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
 - h) such other matters as may be prescribed.
3. A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.



MINUTES ATTACHMENTS

Planning Services Committee

Wednesday, 16 June 2010, 6.00 pm

